

SMT. JUSTICE T. RAJANI

M.A.C.M.A. No. 164 OF 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower Court, questioning the award passed by the III Additional District Judge (Fast Track Court), Nizamabad, in O.P.No.1932 of 2002, dated 03.07.2007, on the grounds that the Tribunal did not take the income of the appellant as Rs.20,000/- per month which he was earning by doing business and engineering works and that the Tribunal failed to notice that the appellant sustained grievous injuries.

Counsel for the appellant appeared, but, counsel for the respondent did not appear.

At the hearing, counsel for the appellant contends that the Tribunal granted Rs.5,000/- towards each of the fracture injury, which is on lower side.

A perusal of the award of the Tribunal shows that Rs.5,000/- was awarded to each of the four fracture injuries apart from awarding Rs.1,000/- towards simple injury. One fracture is on the left tibia and the other fractures are on elbow and both wrists. Considering that the appellant sustained fracture injuries on his leg and both wrists, which would disable him from attending his daily duties, this Court is inclined to enhance the award passed by the Tribunal towards each of the fracture injuries and Rs.15,000/- is granted towards fracture of the tibia and Rs.10,000/- is

granted towards the pain and suffering caused due to the other three fracture injuries. The award also shows that the Tribunal granted only Rs.4,000/- towards loss of earnings.

In view of the fact that the appellant sustained four fracture injuries and one on the left tibia, it can easily be assumed that he would be disabled to attend his duties for at least a period of three months. The appellant is stated to be doing business and engineering works. To accept the testimony of PW.1 there is no supporting evidence adduced with regard to his avocation and also the income. Hence, Rs.3,000/- is taken as the monthly income of the appellant and Rs.9,000/- is awarded towards loss of earnings during the period of treatment, rest and recovery in place of Rs.4,000/-.

In the result, the appeal is partly allowed by enhancing the compensation granted by the Tribunal by Rs.30,000/-. To the extent indicated above, the amount stands enhanced.

This award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate and from the time as awarded by the Court below.

Miscellaneous petitions, if any, shall stand closed. No costs.

T. RAJANI, J

Date: 03.03.2017
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