

SMT JUSTICE T. RAJANI

MACMA No.1433 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the court below, assailing the judgment of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, (FTC), Anantapur, passed in OP.No.587 of 2006, dated 05.12.2007, on the grounds that the compensation awarded by the court below is not adequate and that the court below did not award adequate compensation towards loss of income and the price of the bull was awarded at only Rs.8,000/- instead of Rs.15,000/-, which is the cost of the bull.

2. Heard the counsel for the appellant and the counsel for the respondents.

3. This is a case where the claimant sustained injuries in a motor accident. The injuries, as sustained by him, are: deformity with swelling and palpable crepitus at middle 1/3rd of right leg and the other injuries are simple in nature, which are six in number. The court below awarded Rs.24,000/- towards pain and suffering, which in the considered opinion of this court can be enhanced by Rs.5,000/- as compensation for pain and suffering caused by simple injuries. Hence, the compensation towards pain and suffering is enhanced to Rs.29,000/-.

4. The court below took the income of the petitioner as Rs.1,500/- per month. He is aged 32 years and is stated to be an agriculturist. Hence, the said income can be considered as low. The same can be taken as Rs.3,000/- per month. The evidence of PW2, who is a Doctor, shows that the petitioner required three months rest and that after his admission into hospital on 07.08.2005, he was discharged on 17.08.2005. He also stated that the claimant would not be able to do any agricultural work. The period for the treatment for rest and recovery can be taken as 3½ months. Hence, the loss of income during the period of treatment, rest and recovery would come to Rs.3,000/- x 3½ = Rs.10,500/-.

4. The court below awarded Rs.1,000/- towards extra nourishment and transportation charges, which, on the face of it, can be considered as very meagre. The petitioner sustained an injury on his leg, which might have required special transportation while going to and fro from the hospital. Hence, Rs.10,000/- can be awarded towards transportation and other incidental expenses.

5. As regards, the contention of the petitioner's counsel that Rs.8,000/- granted towards the loss of bull is not adequate, this court is unable to accept the said contention as admittedly no evidence was adduced with regard to the price of the said bull. The court below considering the said fact awarded Rs.8,000/-, which, without any additional material placed on record, cannot be interfered with.

6. As regards the disability of the petitioner, the evidence of PW2 does not show that the petitioner sustained any disability. He stated that the petitioner was advised bed rest for three months to recover from the wounds and after three months he would be able to recover. Hence, the award of the lower court is modified to the extent indicated in the award.

7. In all, the claimants are entitled to enhanced compensation of Rs.29,000/- - Rs.24,000/- = Rs.5,000/- (pain and suffering) + Rs.10,500 - Rs.3,000/= 7,500/- (loss of income) + 10,000/- - Rs.1,000/- = Rs.9,000/- (transportation and other incidental expenses) = Rs.21,500/- with proportionate costs. The rest of the award is left uninterfered with. This award shall relate back to the date of decree and the enhanced compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The appeal is, accordingly, partly allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

November 9, 2017
LMV