

SMT. JUSTICE T. RAJANI

M.A.C.M.A. No. 741 OF 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower Court, assailing the award of the III Additional Chief Judge, City Civil Court, Hyderabad, in O.P.No.2316 of 2005, dated 02-07-2007, on the ground that the lower Court took monthly income of the deceased as only Rs.3,750/- and that cost of the artificial leg was not awarded.

A perusal of the judgment of the lower Court shows that except the oral testimony of PW1 who is the claimant, there is absolutely no evidence adduced with regard to the avocation or the income of the claimant and in the absence of any such evidence, the usual practice of the Courts is to take Rs.3,000/- per month as the income. But in this case, the income of the deceased was taken as Rs.3,750/-, which approach of the lower Court is to the benefit of the claimant and he cannot find fault with it. Hence, this Court is not inclined to interfere with the income taken by the lower Court.

So far as cost for the artificial leg is concerned, the appellant filed Ex.A-7, which is the bill for purchase of artificial leg and the same is shown in the Appendix of the judgment also and absolutely, there is no discussion on the said exhibit. There cannot be any reason to disallow the claim made on the basis of Ex.A-7. Hence, Rs.65,000/-which is the amount under Ex.A.7 is awarded towards costs incurred by the appellant for purchase of artificial leg and the award of the lower Court stands enhanced to

that extent by making total award as Rs.5,26,500/-, but the same is restricted to Rs.5,00,000/- as per the claim of the appellant.

In the result, the appeal is allowed by enhancing the award amount to Rs.5,00,000/- (Rupees five lakhs only) with proportionate costs.

The award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award of the lower Court.

As a sequel, miscellaneous petitions if any, pending in this appeal shall stand closed.

13-04-2017
nvl



T. RAJANI, J