

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.1113 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the Additional District Judge, Hindupur, in O.P. No.19 of 1997 dated 31.12.2007 on the ground of inadequacy of compensation.

2. Heard both the counsel.

3. Learned counsel for appellants contends that the Court below, without any reasons, did not award compensation towards transportation expenditure, loss of income during the period of treatment and loss of future income due to the disability sustained by the appellant/claimant No.1.

4. A perusal of the record shows that the claimant No.1 filed medical bills for Rs.80,000/- but the same were not considered by the Court below as they were not supported by prescriptions. The claimants examined as many as three doctors to prove the injuries and the treatment taken by him and all the doctors spoke about the injuries sustained by claimant No.1, they being fracture injuries to both of his legs. The evidence also shows that the claimant No.1 visited the hospital subsequent to the discharge on his admission, for further treatment. The hospitals in which petitioner No.1 was treated are all private hospitals. Hence, there is every possibility of the claimant No.1 incurring the expenditure evidenced by the medical bills under Ex.A9. Though they were not

supported by prescriptions, there is no suggestion made to the witness that the medicines mentioned in the medical bills do not pertain to the treatment of the fractures of the claimant No.1. Hence, the contention of the learned Standing Counsel for the respondent that the medical bills cannot be taken as basis to grant compensation towards medical expenditure as found in Ex.A9 is not merited. The Court below, however, awarded Rs.15,000/-. The rest of the amount needs to be awarded i.e. Rs.65,000/-

5. The Court below did not award any compensation towards loss of future disability, which in my opinion is rightly done, as the evidence of PWs.5 and 6 do not spell about the disability. PW.4, the doctor who treated him spoke about the disability, but his evidence loses confidence, due to the fact that in the chief examination, he stated that he issued the disability certificate and in the cross examination, he stated that it is not issued by him. Hence, the disability certificate which is not issued by PW.4 cannot be taken as a basis to arrive at a conclusion that there is disability to claimant No.1.

6. However, the Court below did not award any compensation towards transportation expenditure. The claimant No.1 having sustained fractures injuries to both his legs might have required special transportation while going to and from the hospital. Hence, considering the same, Rs.10,000/- awarded towards transportation charges.

7. The Court below did not award any compensation towards loss of income during the period of treatment, rest and recovery. As already observed, the evidence amply proves that the deceased was under the treatment for a few months. Considering the nature of injuries, atleast three months can be taken as the period of treatment. If the monthly income of the deceased is taken as Rs.3,000/- per month as the deceased was a cleaner, Rs.9,000/- should be the award under the head of loss of income during the period of treatment, rest and recovery.

8. Hence, the claimants are entitled to an enhanced compensation of Rs.10,000/- towards transportation charges, Rs.9,000/- towards loss of income during the period of treatment, rest and recovery and Rs.65,000/- towards medical bills and the rest of the award is left uninterfered with. In all, total compensation would come to Rs.85,000/-. 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.

9. Accordingly, the appeal is partly allowed with proportionate costs. As a sequel, the miscellaneous applications, if any, shall stand closed.

T. RAJANI, J

Date:05.10.2017
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