

SMT. JUSTICE T. RAJANI

M.A.C.M.A.No.271 of 2008

JUDGMENT:

This appeal is preferred by the claimant in O.P.No.1120 of 2000 assailing the award dated 22.11.2005 passed by the Motor Accidents Claims Tribunal (IV Additional District Judge) (FTC) at Nizamabad (for short 'the Tribunal') on the grounds that the Tribunal did not appreciate the fractures suffered and expenses incurred by the appellant and the claim was rejected on technical grounds.

2. At the hearing, learned counsel for the appellant argued that the amount granted towards pain and suffering, which is Rs.10,000/-, is on the lower side, as the injury is a compound fracture and sought to enhance the same. This court also opines that compound fracture would be of more pain and would result in huge suffering by the appellant, as external injury would also be there. Hence, another Rs.10,000/- is awarded towards pain and suffering. A perusal of the award of the Tribunal and the material placed before this court does not warrant interference with the award of the Tribunal on any other aspect. As rightly held by the Tribunal, appellant refused to appear before the medical board by not pressing the petition filed by him, seeking to refer him to medical board and he obtained disability certificate from a private Doctor. In the light of his refusal to go before the medical board, no value can be attached to the disability certificate obtained from a private Doctor. The Tribunal also awarded

medical expenditure over and above Rs.2,641/- which was the actual expenditure incurred by the appellant. Hence, there is no reason to interfere with the said award. The Tribunal also awarded Rs.7,500/- towards loss of estate, though it is not warranted in cases of injury. But, however, the same can be treated as amount awarded towards loss of income of the appellant during his period of treatment, rest and recovery. Adequate amount of Rs.5,000/- is also awarded towards transportation and extra nourishment. Hence, there is no reason to interfere with the award of the Tribunal on any other ground.

3. In the result, the appeal is disposed of, enhancing the amount of Rs.10,000/- granted by the Tribunal towards pain and suffering to Rs.20,000/-. The claimant would therefore be entitled to total compensation of Rs.42,500/- (Rupees Forty Two Thousand Five Hundred only). 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 Tribunal. Proportionate costs are ordered.

Miscellaneous petitions if any pending in the appeal stand closed.

T. RAJANI, J

March 24, 2017
MRR