

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.170 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the tribunal below, assailing the judgment of the V Additional District Judge, Nizamabad in OP.No.552 of 2004 on the ground that the tribunal did not take into consideration the fracture injuries and other injuries sustained by the appellant in calculating the compensation amount.

2. The record shows that the appellant filed medical certificate Ex.A4, which shows the fracture injuries. The said evidence was, however, disbelieved by the tribunal considering that the case sheet, which was marked as Ex.A9 was not signed by P.W.2 doctor. Even if Ex.A9 is ignored, Ex.A4 shows the fracture injuries. Moreover, the evidence of P.W.2 is very much before the tribunal testifying that the appellant sustained fracture injuries. There is absolutely no reason to disbelieve the said evidence. Hence, the approach of the tribunal in ignoring the evidence showing the fracture injuries sustained by the appellant is not sustainable. The tribunal awarded only Rs.2,000/- towards pain and suffering, which in the considered opinion of this Court can be enhanced to Rs.15,000/-.

3. The tribunal on the premise that the injuries are simple in nature did not award any compensation towards medical expenditure and granted only Rs.2,00/- per day for 20 days of probable treatment and medicines, which amounted to Rs.4,000/-. Hence, the said

amount under those heads can be enhanced to Rs.8,000/-.

The injuries, being fracture injuries, might have disabled the appellant for at least two months from attending to his work and the said period can be treated as the period of treatment, rest and recovery.

The appellant was a milk vendor apart from being washerman and he was allegedly earning Rs.10,000/- per month, but no evidence in that regard was adduced by the appellant. Hence, Rs.3,000/- can be taken as monthly earnings of the appellant. Hence, the appellant would be entitled to compensation of Rs.3,000/- x 2 (months) = Rs.6,000/- towards loss of income during the period of treatment, rest and recovery. Hence, the compensation awarded by the tribunal stands modified to Rs.15,000/- + 8,000/- + Rs.6,000/- = Rs.29,000/-.

In the result, the appellant is entitled to total compensation of Rs.29,000/- as against Rs.7,000/- awarded by the tribunal.

4. This Court is not inclined to interfere with the rate of interest awarded by the tribunal as it is on par with the rate of interest awarded by nationalized banks. This award shall relate back to the date of decree.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand disposed of as infructuous. There shall be no order as to costs.

February 17, 2017
DSK

T. RAJANI, J