

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.411 of 2008

Date : 04-08-2017

Between:

Vallpuri Sangameshwar Rao

... Petitioner.

And

Addanki Nageswar Rao and another.

... Respondents



THE HON'BLE SMT JUSTICE T.RAJANI**MACMA No.411 of 2008****JUDGMENT:**

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the Judgment of the District Judge, Khammam in MVOP No.133 of 2006, dated 04-10-2007, on the ground that the amount of compensation awarded by the Court below is inadequate.

2. Heard the learned counsel for the appellant. Learned counsel for the respondents remained absent.

3. The grievance of the appellant is that the Court below did not award any amount towards the pain and suffering caused by the fracture to the metacarpals 3, 4 & 5. The contention of the claimant before the Court below seems to be that he sustained four grievous injuries. But appreciating the medical record, the Court below came to a conclusion that there was only one grievous injury, which was a result of the crush injury to the right foot, resulting in fractures to the three metacarpals. The Court below, while observing that there will not be any disability as he was sufficiently operated and discharged from the hospital, awarded Rs.25,000/- towards permanent and partial disability. There does not seem to be any reason for awarding any amount towards disability, in the light of the fact that the Court itself observed that there was no disability. Moreover the Doctor, who was examined on behalf of the claimants i.e., P.W.2 did not state about any disability. He only spoke about the treatment taken by the petitioner, which is in the form of operation, debridement and sutures on the first admission and dressing on the second admission.

There was skin drafting also done on 24-01-2006, but he did not speak about any disability ensuing from the said injuries. Hence, Rs.25,000/- awarded towards permanent and partial disability can be taken as awarded for the pain and suffering caused by the injuries. The counsel for the appellant contends that the Court below did not consider Ex.A5, which are the medical bills to a tune of Rs.25,341/-, and awarded only Rs.20,000/- without assigning any reasons. I opine that when there are medical bills filed by the petitioner and when the Court is ready to accept that the petitioner was treated by the Doctor and surgery was conducted, there need not be any reason for disbelieving Ex.A5 and disallowing a part of the amount under Ex.A5. Hence, the remaining amount of Rs.5,341/- also can be awarded towards medical expenditure incurred by the petitioner. The petitioner also filed Ex.A6, which are the bills for his travel in a car and they are to a tune of Rs.1,800/-. The injury to the leg might have required the petitioner to take special transportation, while going to & fro from the hospital. Hence, Rs.800/- which is the remaining amount under Ex.A6 is awarded towards transportation expenditure as the lower court already awarded Rs.1,000/- towards the transportation charges. This Court is inclined to award Rs.2,000/- towards incidental expenses that might have been incurred by the petitioner. The Court below did not choose to award any amount towards loss of income during the period of treatment and recovery. The petitioner is stated to be an agriculturist. Hence in the least, his income would be Rs.3,000/- per month. The injuries would suggest that he might have been unable to attend work at least for a period of two months. Hence, Rs.6,000/- is awarded under the head loss of income during the period of treatment and recovery. In all Rs.14,141/- would be the amount that has to be awarded over and

above the amount awarded by the lower Court which is Rs.41,000/-. In total, the award amount comes to Rs.55,141/- which can be rounded off to Rs.55,500/-. The enhanced amount shall carry interest at the rate specified and from the time indicated by the Court below.

4. In the result, the appeal is partly allowed with proportionate costs.

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

JUSTICE T. RAJANI

Date: 04-08-2017.

mrh

