

SMT. JUSTICE T. RAJANI

MACMA No.2910 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order of Chairman, Motor Accident Claims Tribunal-cum-III Additional District and Sessions Judge, Ongole, in M.V.O.P.No.544 of 2001 dated 18.05.2005, on the grounds that the Court below did not award adequate compensation and that it did not consider the disability as stated by P.W.3, which is 70%.

Heard learned counsel for the appellant. None appears for the respondents.

A perusal of the order of the Court below reflects a strange approach. The case of the claimant is that he met with a motor vehicle accident in which he sustained injuries to his right leg and it had amputated up to thigh. The same is spoken to by P.W.3, doctor, and the percentage of disability stated by Board is 70%. Even without the evidence of the doctor, the disability can be assumed, as it is the case of amputation up to thigh. The claimant is stated to be a labourer and the disability would certainly affect the avocation of the claimant. The Court below considered the

income of the petitioner as Rs.3,000/- and stating that by applying the multiplier, he would be entitled for Rs.54,000/- for amputation of right leg, granted the said amount. The multiplier is not specified. The said approach is totally away from the established principles of calculation to be made in respect of the claimants, who sustain disability. Hence, appropriate calculation of the loss caused to the appellant due to the disability has to be made. The income of Rs.2,100/- per month and Rs.25,200/- per annum as accepted by the Court below can be taken. The age of the claimant is stated to be 25 years and the same is not disputed seriously. Multiplier for this age as per **Sarla Verma v. Delhi Transport Corporation and another**¹ is '17'. It would result in Rs.4,28,400/- (Rs.25,200/- X 17). The claim of the claimant is only for Rs.2,00,000/-. But, the principle that just compensation should be awarded and the compensation can exceed the claim amount is well settled in **Rajesh and others v. Rajbir Singh and others**². Hence, Rs.4,28,400/- is substituted for Rs.54,000/- which was awarded by the Court below for amputation of right leg.

Hence, the order of the Court below is modified to the extent indicated above and the rest of the order is left un-interfered with. This order shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate

¹ (2009) 6 SCC 121

² 2013 ACJ 1403 = 2013(4) ALT 35

specified and from the time indicated in the order of the Court below. The claimant shall pay Court fee on the amount over and above the claim, within a period of three months from today.

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

Pending miscellaneous petitions, if any, shall stand closed.

SMT. T. RAJANI, J

26th OCTOBER, 2017.

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