

SMT JUSTICE T. RAJANI

MACMA.No.2074 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the I Additional Motor Accidents Claims Tribunal, Nellore in OP.No.14 of 2004 dated 29.01.2008 on the grounds that the tribunal did not accept the income of the claimant as Rs.5,600/- per month and the same is erroneous; it also did not grant adequate amount towards loss of income resulting from the disability of 20% and the medical expenditure is also not properly compensated.

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

3. The Court below awarded Rs.7,500/- towards pain and suffering. The appellant counsel contends that the said amount is not adequate in the light of the nature of the injury, which is a crush injury to right foot. The record shows that he stayed in the hospital for four days; the crush injury would result in huge pain and suffering, hence, another amount of Rs.7,500/- can be awarded towards pain and suffering caused due to the injury sustained in the accident. The Court below awarded Rs.12,500/- towards permanent disability. The evidence of P.W.2, doctor, who treated the claimant, shows that there was a fracture and the same was operated with K wire fixation. The disability is stated to be 20% but the nature of disability is not explained by P.W.2. The claimant is stated to be doing clerical work and unless the nature of disability is properly explained, the effect of

the same on the avocation of the claimant cannot be appreciated. He is doing a white collar job and hence, the disability caused to the leg might not affect his avocation. Moreover, there is no evidence that either he was removed from his job or that the salary was reduced. Hence, the approach of the Court below in declining to award any amount towards loss of future income cannot be found fault with. Hence, Rs.12,500/- awarded towards permanent disability, can be considered, as awarded towards loss of future amenities of life and it can be enhanced by another Rs.2,500/- making it Rs.15,000/-. The claimant filed bunch of medical bills under Ex.A7, which are to the tune of Rs.25,794/-. P.W.2 was nevertheless examined. The nature of treatment, as spoken to by him, would probalilize the above medical expenditure. Hence, the same is awarded towards medical expenditure incurred by the claimant. The award of Rs.20,000/- made towards transportation, medicines, special diet, treatment and transportation can be sustained, by considering the same as an award made towards transportation and other incidental expenses.

4. Hence, to the extent indicated above i.e. Rs.7,500/- + Rs.2,500/- + Rs.25,794 = Rs.35,794/-, the award of the Court below stands modified and enhanced by Rs.35,794/- and the rest of the award is left uninterfered with. 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.

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

September 14, 2017
DSK

T. RAJANI, J

