

THE HONOURABLE JUSTICE SMT. T.RAJANI

MACMA. No.668 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower Court, assailing the award made by the VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad in O.P. No.1052 of 2006 on the grounds that the lower Court did not consider the evidence of the P.W.4, who stated that the appellant requires future medication and he may or may not develop the giddiness, lethargy and memory impairment due to the injury.

A perusal of the evidence of P.W.4, who is the Doctor, who treated the appellant shows that the appellant was admitted in BBR Hospital, Balanagar on 09.02.2005 and was found to have left traumatic sylvian bleed with left temporal contusion and at the same time, patient had been found to have diabetes and hypertension for which had received treatment regularly by physician. But, however, the appellant was given treatment conservatively and discharged on 15.02.2005. He was again admitted for severe headache on 16.02.2005 and was discharged on 24.02.2005 and the injury was stated to be grievous. There was another admission of the appellant in the hospital on 12.03.2005 which was only for one day, for giddiness and vomiting and he was treated with medicines. P.W.4 categorically stated that the appellant needs regular follow up and continuous medication to quid seizures and the appellant may or may not develop giddiness, lethargy (dullness), memory impairment because of the injury. According to him, the patient needs regular medication and follow up treatment because of head injury. A perusal of the award of the lower Court shows that for no reason the medical bills filed by the appellant were ignored. They are to an extent of Rs.32,710/-. The nature of the injury and the evidence of P.Ws.3 and 4 would suggest and show that they have incurred expenditure and there

is no denial by the respondent. Hence, Rs.32,710/- is awarded under the head of medical expenditure incurred by the appellant. The lower Court awarded Rs.30,000/- for the head injury and towards pain and suffering, Rs.10,000/- for loss of earnings during the period of hospitalization and another sum of Rs.5,000/- totaling to Rs.45,000/-.

The learned counsel for the appellant contends that the lower Court totally ignored the evidence of P.W.4 with regard to the future medication of the appellant. This Court feels that some amount ought to have been awarded to meet the future expenditure. This Court, by considering the medical expenditure already incurred and with an amount of guess work, is inclined to award Rs.50,000/- towards future medical expenditure of the appellant. Rs.20,000/- can also be awarded towards transportation and incidental expenditure considering that the appellant had to take treatment as inpatient on two occasions and travel to the hospital on three occasions. Considering the evidence of P.W.4 that he requires future treatment, which may require further visits to the hospital, another Rs.35,000/- can be awarded towards future transportation and incidental expenditure.

The appellant filed salary certificate, which is marked as Ex.A-14 which shows his salary as Rs.8,636/- per month. The appellant is stated to be an employee in Voltas Company Limited working as Helper in Refrigerator unit. Though he did not prove the salary certificate there is no reason to disbelieve the same and the cross examination of P.W.1 does not elicit any fact which would believe the salary certificate. Hence, the same can be taken into consideration. The nature of the injury suggests that the appellant might have been unable to attend his work for at least for three months. Hence Rs. 8636x3=25,908/- is awarded towards loss of income during the period of treatment, rest and recovery.

The contention of the counsel for the appellant that some compensation has to be awarded towards loss of future income cannot be considered due to absence of any evidence on that aspect. He could have examined some person from his office to prove that there was any loss of income. Due to the failure of the appellant to adduce such evidence, this Court is not in a position to grant any amount towards loss of future income. But however, considering the nature of disability and the evidence of P.W.4 Rs.30,000/- is awarded towards loss of future amenities of life. Hence, in all amount of Rs.1,93,618/- is awarded in addition to the award of Rs.45,000/- already made by the lower Court. Then the total award comes to Rs.2,38,618/-, which can be rounded off to Rs.2,39,000/-.

As a result, this appeal is partly allowed. As a sequel, miscellaneous petitions, if any, stand closed. There shall be no order as to costs.

Date: 17.02.2017
LSK

JUSTICE SMT. T.RAJANI

