

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.944 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 District Judge, Mahabubnagar in O.P. No.591 of 2005 dated 01.10.2007 on the ground that the compensation awarded by the trial Court is not adequate as the claimant lost her right eye vision but the Court below awarded only Rs.61,000/- by considering the disability as 25% and no other amounts were awarded.

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

3. A perusal of the judgment of the lower Court shows that the lower Court relied on the judgment of Gujarat High Court in *United India Insurance Company Limited vs Rameshbhai Somabhai Venkar and others*¹ wherein there was loss of left eye vision besides neurological problems. The Court considered that it is a case of 100%disability as there was no cross appeal or appeal by the injured, the finding of the Tribunal that it was only a case of 50%disability, was upheld.

¹ 2007 ACJ 2029

4. In this case, the evidence is ample to prove that the claimant sustained loss of vision of right eye. The assumption of the lower Court is that an eye can be replaced by laser treatment for correction of vision, which is not supported by any substantive material. The loss of vision of right eye or any eye for that matter, would seriously affect the efficiency of a human being. Hence, considering the same, 40% can be taken as the disability in this case.

5. The notional income adopted by the lower Court cannot be interfered with as the claimant is only 8 years of age at the time of accident and the lower Court arrived at Rs.2,25,000/- by multiplying the notional income with multiplier '15' which is appropriate. 40% of disability, therefore, comes to Rs.90,000/-. Hence, the same is awarded as loss of future income in the place of Rs.56,250/-, which is awarded by the lower Court. Apart from it, 50,000/- is awarded towards loss of future marriage prospects as the claimant is a girl and there is every likelihood of her marriage prospects being affected due to loss of her vision in the right eye. The other amounts awarded by the lower Court are adequate and there is no serious contention in that regard.

6. Hence, in all, the claimant is entitled to an enhanced compensation of Rs.83,750/- (Rupees eighty three thousand seven hundred fifty only) 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.

T. RAJANI, J

Date:06.10.2017
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