

SMT JUSTICE T.RAJANI

M.A.C.M.A.NO.931 OF 2008

JUDGMENT:

This appeal is preferred by the appellant-claimant against the judgment in O.P.No.76 of 2003 dated 10.08.2007 on the ground that the compensation awarded by the Court below is not adequate.

Heard both the counsel.

A perusal of the judgment of Court below shows that the Court below did not believe the evidence of P.W.2 and the contents of Ex.A3, which is injury certificate which shows that the petitioner sustained fracture to both bones of right fore arm and fracture of right radius, wrist and injuries to head and other parts of the body on the ground that no x-ray and x-ray report were filed by the petitioner. But in the considered opinion of this Court the said approach cannot be sustained, as, when there is evidence suggesting that the petitioner sustained injuries as stated by him and P.W.2, who is a doctor, who treated the petitioner testifies about the said fact, seeking for additional material in the form of x-rays is not justified. Hence, believing that the petitioner sustained two fracture injuries on the right arm, the award of Rs.2,000/- towards pain and suffering can be enhanced. Before that Rs.6,000/- which was awarded towards injuries can also be considered as being awarded towards pain and suffering, as injuries by themselves need not be compensated. It is only pain and suffering and other losses that are caused due to injuries that need to be compensated. Hence, Rs.12,000/- is awarded towards pain and suffering in addition to the amounts of Rs.6,000/- and

Rs.2,000/-. No medical bills were filed. Hence, the award under the said head need not be interfered with but the amount of Rs.500/- awarded towards transportation which in the considered opinion of this Court is low needs to be enhanced by another Rs.7,500/-, as the petitioner would be requiring special transportation, having sustained fracture injuries. The Court below did not award any compensation towards loss of income during treatment and rest and recovery. Petitioner is stated to be a student. Hence, this Court opines that the injuries might have disturbed his studies for at least one or two months. Hence, Rs.2,000/- is awarded towards loss of studies. In all, Rs.21,500/- is the compensation that stands to be enhanced in addition to what was awarded by the Court below.

This award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award of the Court below. Accordingly, the appeal is partly allowed with proportionate costs. Miscellaneous petitions, if any, pending shall stand closed.

(T.RAJANI, J)

15th November 2017
RRB