

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.806 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the tribunal below, assailing the award of the IV Additional District and Sessions Judge, Nizamabad in OP.No.900 of 2004 dated 29.11.2007 on the grounds that tribunal awarded meager amounts towards the fracture injuries and ignored the probability of medical expenditure of Rs.1,00,000/- towards treatment and failed to award compensation under other heads.

2. Counsel for the appellant was present but none represented the respondent.

3. At the hearing, counsel for the appellant submitted that the tribunal below awarded only Rs.10,000/- towards two fracture injuries, which are on the left leg and ribs.

4. This Court also accepts the contention that the amount awarded towards fracture injuries is very low and hence, Rs.15,000/- is awarded towards each of the two fracture injuries. Hence, an amount of Rs.30,000/- is awarded to the appellant under the head pain and suffering on account of injuries. The tribunal awarded Rs.1,000/- each towards cost of medicines, transportation charges and extra nourishment. The appellant did not produce any evidence with regard to medical expenditure except filing the prescriptions, hence, in the absence of any evidence assessment can be made only by considering

the probabilities with regard to the medical expenditure. Hence, an amount of Rs.5,000/- is awarded under the above heads.

5. The appellant is stated to be cycle mechanic earning Rs.10,000/- per month but no evidence in support of his own evidence as P.W.1 is produced. Hence, Rs.3,000/- can be taken as monthly income. The nature of the injuries would suggest that the appellant might have been not been able to attend to his work and might have been on treatment, rest and recovery at least for a period of three months. Hence, the appellant would be entitled to compensation of Rs.3,000/- x 3 = Rs.9,000/- towards loss of income during the period of treatment, rest and recovery. Hence, the appellant is entitled to total compensation of Rs.30,000/- (pain and suffering) + Rs.9,000/- (loss of income) + Rs.5,000/- (medicines, transportation charges and extra nourishment) = Rs.44,000/-. This award shall relate back to the date of decree and shall carry interest at the rate awarded by the Court below.

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

T. RAJANI, J

March 3, 2017
DSK