

SMT JUSTICE T. RAJANI

MACMA.No.1290 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the XV Additional Chief Judge, Hyderabad in O.P.No.2130 of 2002 dated 19.09.2007 on the grounds that the Court below failed to appreciate that the disability was 100%; it failed to appreciate the disability certificates Ex.A11 and A12 and it did not award adequate compensation under the other heads also.

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

3. The counsel for the appellant contends that the medical expenditure, which is evidenced by Exs.A5 and A6, was not believed by the Court below without any reason. Though P.W.2 did not testify to the genuineness of the medical bills, the counsel contends that the nature of the injuries, the period of treatment and the nature of the hospital would highly probablize the said expenditure.

4. There is no reason to dismiss the said contention, as the record reveals that the claimant sustained as many as four grievous injuries, which are fracture of right femur shaft; left parietal hemorrhage; left occipital hemorrhage and lateral rotation of left leg. The period of stay in the hospital is also 2½ months; the hospital, being a private hospital, is likely to charge heavy fees and charges. Hence, in all probability, the claimant might have incurred the expenditure under

Exs.A5 and A6. But the Court below awarded only Rs.1,00,000/- towards medical expenditure. Hence, this Court feels it fit to award Rs.2,50,804/- evidenced by Exs.A7 and A8 towards medical expenditure.

5. With regard to the income of the claimant, the Court below disbelieved the evidence of P.W.1, who is the claimant himself, who stated that he was working as Helper and took the notional income of Rs.15,000/- per annum. The age of the claimant was taken as 24 years. The Court did not believe the age of 22 years which is mentioned in the claim petition. However, even if his age is taken as 22 years, there is absolutely no reason to assume that P.W.1 might have gone to the extent of mentioning the name of the company in which he was working. If that has to be believed, there can be no exaggeration found in the salary stated by the claimant, which is only Rs.3,000/- per month. The disability, however, is stated to be 45%, which was accepted by the Court below. The monthly income of the claimant taken as Rs.3,000/- would get reduced to Rs.1,350/- due to 45% disability and as such, loss of annual income would be Rs.16,200/-. There is a quarrel about the multiplier also. The multiplier relevant for the age of the claimant is '18' as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION ¹. Hence, the loss of income would come to Rs.16,200/- x 18 = Rs.2,91,600/-. Out of the said amount, Rs.1,14,750/-, which was awarded by the Court below has to be reduced, then the balance would be Rs.2,91,600/- - Rs.1,14,750/- = Rs.1,76,850/-.

¹ (2009) 6 SCC 121

6. The counsel also contends that the award made under the head pain and suffering is also not adequate for the four grievous injuries mentioned above. The Court below awarded only Rs.25,000/-. This Court also considers that the said compensation is not adequate. Hence, another sum of Rs.30,000/- is awarded under the head pain and suffering.

7. Hence, in all, the claimant is entitled to an enhanced compensation of Rs.2,50,804/- (medical expenditure) + Rs.1,76,850/- (balance of loss of income awarded herein) + Rs.30,000/- (additional sum awarded toward pain and suffering) = Rs.4,57,654/- rounded off to Rs.4,58,000/- 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