

SMT JUSTICE T. RAJANI

MACMA.No.2494 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the Additional District Judge, Hindupur in OP.No.141 of 2003 dated 07.12.2005 on the grounds that the Court below did not award adequate compensation, it failed to consider the medical bills and it failed to consider Ex.A5, disability certificate and hence, the judgment is liable to be set aside.

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

3. A perusal of the judgment of the Court below shows that no discussion was, apparently, taken up on the aspects, which were observed by the Court below. Though it took pains to mention the aspects, which came forth from the evidence of the Doctor, P.W.2, it did not meet all those aspects and a quick conclusion was arrived at by awarding Rs.25,000/- as a lumpsum figure, without specifying as to which aspect, discussed by the Court below, it related to.

4. The evidence of P.W.2 shows that the claimant sustained two fracture injuries i.e. inter trochanteric fracture left hip and fracture of medial condyle of left femur. In the light of the evidence of P.W.2 that there are two fracture injuries and that treatment was taken by the claimant as inpatient, Rs.30,000/- can be awarded towards pain and suffering. The medical bills are to a tune of Rs.7,286/-, about which

the Court below observed that the total bill was Rs.7,128.75 ps., after deduction. There need not be any difficulty in awarding the amount contained in the medical bills as, in all probability; the claimant must have incurred the said expenditure. Hence, the said amount is awarded under the head medical expenditure.

5. By considering that the fracture injuries are sustained on the legs, it can be assumed that the claimant might have required special transportation to travel to and from the hospital. Hence, Rs.10,000/- is awarded under the head transportation charges.

6. Since the claimant is stated to be working as a clerk in a Saw Mill and there is no concrete evidence regarding the income of the claimant, Rs.3,000/- can be taken as his monthly income. The injuries would suggest that the claimant might not have been able to attend to his work at least for a period of three months. Hence, Rs.9,000/- is awarded under the head loss of income during the period of treatment, rest and recovery.

7. The evidence of P.W.2 is very clear on the aspect of disability. Apart from saying that 20% is the disability, P.W.2 explained the nature of disability by stating that it is in the form of restriction of knee and hip movements and there is foot drop on the left side and still there is limping and that the claimant cannot walk without the aid of stick. Hence, the above disability can be accepted as affecting the avocation of the claimant, as, even if it is clerical job, the restriction to knee movements would hamper the efficiency of the claimant in his avocation. The age of the claimant is stated to be 40 years and the

multiplier relevant as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹ is '14'. 20% of the disability would result in loss of (Rs.3,000/- x 20% = Rs.600/-) Rs.600/- per month and Rs.7,200/- per annum. Hence, the loss of future income would come to Rs.7,200/- x 14 = Rs.1,00,800/-. Apart from that Rs.10,000/- is awarded towards loss of future amenities of life. In all, the claimant is entitled to total compensation of Rs.30,000/- (pain and suffering) + Rs.7,128/- (medical bills) + Rs.10,000/- (transportation charges) + Rs.9,000/- (loss of income for three months) + Rs.1,0,800/- (loss of future income) + Rs.10,000/- (loss of future amenities of life) = Rs.1,66,928/-, which is rounded off Rs.1,67,000/-.

8. Hence, in all the claimants are entitled to total compensation of Rs.1,67,000/- with proportionate costs. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

November 17, 2017
DSK

¹ (2009) 6 SCC 121