

SMT JUSTICE T. RAJANI

MACMA.No.298 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the respondent before the Court below, assailing the judgment of the V Additional District Judge, Kurnool in MVOP.No.303 of 2004 dated 02.09.2005 on the grounds that the Court below totally ignored the negligence on the part of the rider of the motor cycle; it also erred in relying on the evidence of P.Ws.1 and 2, who are residents of the same village; it failed to consider the evidence of R.W.1 and it erred in taking the age of the injured without any proof.

2. Heard both sides.

3. The counsel for the appellant, at the hearing, did not argue on the grounds taken in the appeal but he contended that the Court below though observed that the disability, as mentioned in the disability certificate, is only temporary, went on to award compensation taking the disability as 20%.

4. A perusal of the disability certificate would show that the Court below erroneously read the contents of the same. The word 'temporary' were, in fact, relevant to column 6 (c) where the nature of use of appliance is to be mentioned. So the word temporary has to be understood as being in respect of use of appliance and not the extent of disability. But, however, the evidence shows that the claimant had limping and malunion of the fracture, hence, by any stretch of understanding 20% taken as the disability of the claimant cannot be

termed as exorbitant. Hence, the argument of the appellant does not find any favour with this Court.

The civil miscellaneous appeal fails and is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

November 7, 2017
DSK

T. RAJANI, J

