

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.3098 OF 2004

JUDGMENT:

Questioning the order dated 14.5.2004 in W.C. No.217 of 2002 (NF) passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad, on the main grounds that the Commissioner wrongly discarded the income of Rs.4,000/- per month pleaded by the applicant/appellant, the disability of 50% was reduced to 40% without any reasons and interest was refused, though, ought to have granted from the date of accident at 12% per annum, the present appeal is preferred.

2. Heard Smt. K. Sarala Mahender Reddy, the learned counsel for the appellant, and Sri N. Parameswara Reddy, the learned counsel for the 2nd respondent-Insurer.

3. So far as the appeal against the 1st respondent-owner of the vehicle is concerned, the appeal stood dismissed for default on 23.3.2011. Of course, he was saddled with the liability to pay compensation jointly along with Opposite Party No.2-Insurer.

4. Perused the order under challenge, and the material available on record.

5. It is true, P.W.2-Medical Officer has spoken to permanent partial disablement of 45% and loss of earning capacity

also at 50%, a certificate under Ex.A4 was also issued, which, of course, was not discarded by the authority, but reduced without assigning any reason opining that the ends of justice will be met by taking loss of earning capacity at 40%. Of course, interest component is not finding place in the impugned order.

6. So far as the earning capacity is concerned, admittedly, there is no documentary proof nor the Opposite Party No.1 stepped into witness box. Therefore, the amount of Rs.1,800/- taken as monthly wage by it cannot be disturbed. But, however, the disability has to be 50% as spoken to by P.W.2 and, accordingly, accepting 50% disability and applying the relevant age factor 218.47, the compensation works out thus:

$$\text{Rs.1800} \times \frac{60}{100} \times \frac{50}{100} \times 218.47 = \text{Rs.1,17,973-80 ps.}$$

Thus, the petitioner is entitled to Rs.1,17,973-80ps, which is rounded of to Rs.1,18,000/- (Rupees One lakh and eighteen thousand only).

7. In the result, the Appeal is partly allowed while enhancing the compensation from Rs.94,370-00 (Rupees Ninety four thousand three hundred and seventy only) to Rs.1,18,000/- (Rupees One lakh and eighteen thousand only) payable by the Opposite Party Nos.1 and 2. The rate of interest at 12% p.a. is awarded from the date of taking place of the accident i.e., on 12.8.2001 till the date of deposit of the

amount to the credit of WC. No.217 of 2002 (NF). There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 17.08.2017
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