

THE HONOURABLE JUSTICE SMT. T. RAJANI

MACMA. No.776 of 2008

JUDGMENT:

This appeal is preferred against the order of the VIII Additional District Judge, Nizamabad made in O.P. No.1954 of 2002 on the grounds that the earnings of the appellant were not taken as Rs.15,000/- per month though documentary evidence was produced in support of the same and the lower Court arrived at Rs.10,000/- as monthly earnings of the appellant. The Court below ought to have considered that the appellant was in the hospital for more than two weeks and it arrived and opined that the bills are created for the purpose of case. Court ought to have granted a sum of Rs.6,00,000/- (Rupees six lakhs only) instead of Rs.74,500/- (Rupees seventy four thousand five hundred only). Grant of interest at the rate of 7.5% was also sought to be enhanced to 9% per annum. Though it was urged in the grounds of appeal that the monthly earnings of the appellant ought to have been taken as Rs.15,000/- (Rupees fifteen thousand only) per month, same was not agitated during the course of hearing. Moreover, I am of the opinion that the lower Court has assumed the income of the appellant properly, in the absence of any evidence having been produced in support of the income of the appellant. The certificate, which was produced, was marked subject to objection and the objection raised by the respondent with regard to the said certificate, which was marked as Ex.A-9 is that it was obtained in the year 2002 but was not filed in the Court. Lower Court, however, overruled the said objection and believed the genuineness of the certificate. But having considered the inconsistency between the earnings shown in the Ex.A-9 and the earnings shown in the claim petition as Rs.15,000/- (Rupees fifteen thousand only) the lower Court did not accept the salary as mentioned in Ex.A-9. The salary shown in Ex.A-9 was Rs.15,000/- and in the claim petition Rs.15,000/- is shown as income from salary and agriculture. It also took into

consideration the fact that the appellant did not examine any official from the Chit Fund Company to prove Ex.A-9. Hence, the lower Court taking Rs.10,000/- (Rupees ten thousand only) per month as monthly salary of the appellant is found to be on correct assumption.

The only contention that was raised seriously is with regard to the non acceptance of the medical bills by the lower Court. The lower Court did not consider the medical bills for the reasons that they are not supported by the medical prescriptions. The appellant is stated to have sustained injury with corresponding fracture for right scapula, anemia, deep laceration of right foot and she was treated as in-patient for ten days and she was again admitted in the hospital for two days. Simply because the medical bills were not supported by the prescriptions, the medical bills need not be disbelieved, when the bills are issued for the medicines, which are likely to be prescribed for the injuries of the nature sustained by the appellant. The total amount under the medical bills is Rs.57,161/- (Rupees fifty seven thousand one hundred sixty one only) out of which, the lower Court granted only Rs.31,000/- (Rupees thirty one thousand only) hence, the remaining amount of Rs.26,161/- (Rupees twenty six thousand one hundred and sixty only only) is granted to the appellant towards medical bills.

The amount granted towards transportation at the rate of Rs.1,500/- (Rupees one thousand five hundred only) is also found to be meagre in the light of the fact that the appellant had to be admitted in the hospital twice. Hence, Rs.1,500/- (Rupees one thousand five hundred only) is enhanced to Rs.3,000/- (Rupees three thousand only) towards transportation of expenses. The total award of the lower Court for Rs.74,500/- (Rupees seventy four thousand five hundred only) stands enhanced to Rs.1,02,161/- (Rupees one lakh two thousand one hundred and sixty one only), which can be rounded of to Rs.1,02,500/- (Rupees one lakh two thousand five hundred only). The interest awarded by the

lower Court needs no interference as it is on par with the prevailing rates of interest of Nationalised banks.

With the above, this appeal is partly allowed.

As a sequel, miscellaneous petitions, if any, stand closed.
There shall be no order as to costs.

JUSTICE SMT.T.RAJANI

Date: 31-01-2017
LSK

