

SMT JUSTICE T. RAJANI

MACMA.No.29 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the XXII Additional Chief Judge, City Criminal Court, Hyderabad in OP.No.392 of 2004, dated 08.01.2007 on the grounds that the Court below did not award adequate compensation and did not consider the 40% disability sustained by the claimant and that the interest awarded is also not adequate.

2. Heard both sides.

3. The counsel for the appellant submits that though there are two fracture injuries i.e., Grade Compound IIIB fractures in both bones, one on right leg and the other being fracture of Medial Malleolus, the Court below awarded only Rs.25,000/- towards pain and suffering. This Court opines that the claimant has to be compensated with compensation, which is adequate, and the compensation awarded by the Court below is not adequate for pain and suffering caused by the fractures. Hence, the same is enhanced to Rs.40,000/-.

4. The counsel for the appellant also contends that the amount under the Medical Bills, being Rs.95,300/-, the Court below awarded only Rs.65,000/- and there are absolutely no reasons for disallowing the rest of the amount under the medical bills. The record shows that the opinion of the doctor is very much available with the Court below, to assess the probability of the medical expenditure. The fractures being grievous in nature and the treatment being in a private hospital

would probabilise the medical expenditure in the said medical bills. Hence, the rest of the amount under the medical bills i.e. Rs.30,300/- is awarded under the said head. The Court below awarded Rs.2,000/- towards transportation expenditure, which can be enhanced to Rs.10,000/-, without much discussion, as the petitioner sustained injuries to his legs, which would require special transportation while going to and fro from the hospital.

5. The contention of the petitioner that the Court below did not adopt a scientific approach in awarding compensation towards loss of future income is not found reasonable in the light of the fact that the petitioner is a student and the evidence on record does not show as to what avocation the petitioner is likely to take up in future.

6. The judgment of the Court below shows that observing that though P.W.2, the doctor, who treated the claimant, assessed the disability at 40%, did not issue any disability certificate and that there is no evidence to establish that the physical disability hampers future earning capacity of the claimant, the Court below awarded Rs.25,000/- for physical disability, which needs no interference.

7. The counsel for the petitioner also contends that no amount was awarded towards future surgery of the claimant, which is evidenced by Ex.A9, and that the expenditure under Ex.A9 is only with regard to the surgery conducted in the year 2006. Hence, the said amount need not be awarded.

6. Hence, in all, the claimant is entitled to enhanced compensation of Rs.40,000/- - Rs.25,000/- = Rs.15,000/- (pain and suffering) +

Rs.95,300/- - Rs.65,000/- = Rs.30,300/- (medical bills) + Rs.10,000/-
- Rs.2,000/- = Rs.8,000/- (transportation) = Rs.53,300/- with
proportionate costs. The rest of the award shall remain unaltered.
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.

October 11, 2017
LMV

T. RAJANI, J

