

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.782 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is claimant before the tribunal below, assailing the award of the IV Additional District Judge, Nizamabad in OP.No.569 of 2004 dated 21.09.2007 on the ground that the compensation awarded under each head is very low.

2. At the hearing, both the counsels were present. Counsel for the appellant contends that though three fracture injuries were sustained by the appellant, the tribunal below awarded very meager compensation of Rs.5,000/- towards pain and suffering and Rs.10,000/- towards injuries, which in the considered opinion of this Court is on the lower side. Considering that one fracture injury is on the leg and other two fracture injuries are on the hands, the compensation awarded by the tribunal under the heads pain and suffering and injuries is enhanced to Rs.25,000/- as against Rs.10,000/- + Rs.5,000/- = Rs.15,000/- awarded by the tribunal under both the heads.

3. The appellant is stated to be an auto mechanic and earning Rs.10,000/- per month. Though no evidence is produced with respect to his avocation, his evidence as P.W.1 need not be disbelieved. But in the absence of any evidence supporting his income, Rs.3,000/- can be taken as his monthly income. The nature of the injuries would suggest that the appellant might have been on treatment, rest and recovery at least for a period of three months. Hence, the appellant

would be entitled to compensation of Rs.3,000/- x 3 = Rs.9,000/- towards loss of income during the period of treatment, rest and recovery. Hence, the appellant is entitled to total compensation of Rs.25,000/- + Rs.9,000/- (loss of income) + Rs.5,000/- (awarded by the tribunal) + Rs.5,000/- (awarded by the tribunal) = Rs.44,000/-. In the result, the appellant is entitled to total compensation of Rs.44,000/- as against Rs.25,000/- awarded by the tribunal. This award shall relate back to the date of decree. This Court is not inclined to interfere with the rate of interest awarded by the tribunal as it is on par with the rate of interest awarded by nationalized banks.

The civil miscellaneous appeal is allowed. As a sequel, the miscellaneous applications, if any, shall stand disposed of as infructuous. There shall be no order as to costs.

March 3, 2017
DSK



T. RAJANI, J