

**THE HONOURABLE JUSTICE SMT. T.RAJANI**

**MACMA. No.320 of 2008**

**JUDGEMENT:**

This appeal is preferred by the appellant who is the petitioner in the lower court, against the judgment and decree dated 05.11.2007 passed in MVOP. No.1802 of 2006 by the X Additional District and Sessions Judge, Visakhapatnam at Anakapalle, on various grounds. But, at the hearing, the learned counsel for the appellant importantly urged on error committed by the lower Court with regard to appreciation of Ex.A-7. The lower Court went on the belief that Ex.A-7, which was dated 27.09.2007, is a bogus one, based on the fact that it was marked by the appellant/petitioner on 25.09.2007 whereas it was issued on 25.09.2007. The learned counsel for the appellant/petitioner draws the attention of this Court to the deposition of the P.W.1, which was given on several dates. Ex.A-7 was marked on 03.10.2007 but not on first instance of the examination of P.W.1 as a witness, i.e. on 25-09-2007.

The learned counsel for the respondent fairly conceded with the opinion of this Court that it is an obvious error committed by the lower Court and conceded to accept Ex.A-7 and to assess the loss of future income based on the disability mentioned therein. Ex.A-7 is to the effect that the appellant/petitioner was assessed with 35% of disability. Appellant's counsel did not urge on any other aspect except the above. The income of the appellant was taken Rs.2,000/-, which was not disputed at the stage of appeal. Hence, 35% of disability would result in loss of Rs.700/- per month and Rs.8,400/- per annum and the multiplier relevant for the age of appellant, which is 45 years is 14. Hence,  $8400 \times 14 = 1,17,600/-$  would be the award towards loss of future income of the appellant. The lower Court has awarded Rs.61,000/-. Hence, the total award comes to Rs.1,78,600/-, which was agreed by the appellant's

counsel to be restricted to Rs.1,50,000/-, which is the claim made in his claim petition. Hence, award of the lower Court is modified to Rs.1,50,000/- (Rupees one lakh fifty thousand only).

This appeal is accordingly, allowed. As a sequel, miscellaneous, petitions, if any, stand closed. There shall be no order as to costs.

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**JUSTICE SMT. T.RAJANI**

**Date: 10.02.2017**

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