

SMT JUSTICE T. RAJANI

MACMA.Nos.928 and 4495 OF 2008

COMMON JUDGMENT:

These appeals are preferred by the appellant and the insurance company, who are the claimant and the insurer before the court below respectively, assailing the judgment, dated 23.08.2007, of the District Judge, Nizamabad, in OP.No.686 of 2004, with regard to the adequacy of the compensation awarded by the court below.

2. The counsel for the claimant would contend that the Court below committed an error while making calculation towards the future loss of income due to the disability sustained by the claimant and it made a deduction of 1/3rd towards personal expenditure of the claimant, which cannot be permitted in cases of injuries. A perusal of the judgment shows that 1/3rd was deducted towards the personal expenditure and that seems to be an error, as, no deduction need to be made in cases of injuries.

3. The counsel for the insurance company would contend that the court below took the multiplier as '18' instead of '17', which is appropriate as per SARALA VERMA v. DELHI TRANSPORT CORPORATION¹.

4. The income taken by the court below is Rs.3,000/-. Hence, accepting the above contentions, the calculation, if made, would result in Rs.36,000/- (annual income) X 60/100 (disability)

¹ (2009) 6 SCC 121

X 17 = Rs.3,67,200/- as loss of future income and the enhanced loss of future income comes to Rs.3,67,200/- - Rs.2,59,200/- = Rs.1,08,000/-.

5. The counsel for the claimant further submits that the lower court failed to award any amount towards loss of income during the period of treatment. Though the claimants did not put forth any material regarding the period of treatment, from the nature of injury, which has resulted in amputation, it can be assumed that two months would be the period of treatment, recovery and rest. Hence, Rs.3,000/- x 2 = Rs.6,000/- is awarded under the head of loss of income during the period of treatment, rest and recovery. In all, the claimant is entitled to enhanced compensation of Rs.1,08,000/- + Rs.6,000/- = Rs.1,14,000/- with proportionate costs. The rest of the award is left uninterfered with. 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.

To the extent indicated above, two appeals are partly allowed with proportionate costs. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

November 10, 2017
LMV