

THE HONOURABLE JUSTICE SMT. T. RAJANI

MACMA. No.812 of 2008

JUDGMENT:

This appeal is preferred against the order dated 04.12.2007 of the II Additional Chief Judge, City Civil Court at Hyderabad made in O.P. No.3173 of 2004 on the grounds that the lower Court ought to have awarded Rs.1,00,000/- (Rupees one lakh only) towards pain and sufferings and Rs.30,000/- (Rupees thirty thousand only) towards loss of amenities in life and ought to have awarded Rs.1,40,000/- (Rupees one lakh forty thousand only) under the head of loss of income, instead of Rs.30,000/- (Rupees thirty thousand only), the lower Court ought to have awarded future loss of earnings by estimating the loss of earning capacity to the extent of hundred per cent, as P.W.2 stated that the appellant sustained 40% to 45% permanent disability.

Though the above grounds were raised in the appeal, during the hearing, the appellant's counsel mainly emphasised on the loss of future earnings. The counsel for the respondent in opposing the said contention, mainly relied on the fact spoken to by P.W.3 that the appellant attended his duties even after the accident. But the evidence of P.W.3 also shows that the appellant was removed from service for his unauthorised absence. Ex.A-15 is the termination letter dated 06.10.2006. There was a show-cause letter dated 04.09.2006, issued to the appellant under Ex.A-17 for which the appellant submitted his explanation by way of Ex.A-18, letter dated 16.10.2006. Ex.A-18 shows that the explanation given by the appellant was that he could not attend duties due to consequential difficulties and disability of the injuries sustained in this motor accident. The evidence of P.W.2 lends any amount of credibility to the reasons mentioned in Ex.A-18 letter. P.W.2 states that the appellant is likely to get injury to the brain even with a small force due to the skull bone removal and even if anybody touches

with a small force on the head it would affect his brain. He also stated that the main job of the appellant may be affected because of the emotional and behavioural disturbances caused by the stress of day to day life. Hence, there need not be any reason to disbelieve the explanation given by the appellant under the Ex.A-18, that he was forced to be absent to his job due to the disability and hardship caused by the injuries sustained in this accident. The disability, however, stated by the P.W.2 is only to the extent 40% to 45%, which is permanent. He did not elaborate on the nature of the disability. But the evidence of P.W.2 read as a whole, would suggest that the appellant sustained disability of 40% to 45%. Hence, he would be entitled to future loss of earnings at that rate. The earnings of the appellant were taken as Rs.5,000/- (Rupees five thousand only) per month, which can be understood from the fact that Rs.30,000/- was awarded towards loss of earnings during the period of treatment of the appellant for six months. The appellant did not adduce sufficient evidence with regard to his income. Hence, I am also inclined to take the income of the appellant as Rs.5,000/- (Rupees five thousand only) per month. 45% of the disability would result in loss of Rs.2050/- (Rupees two thousand and fifty only) per month and Rs.27,000/- (Rupees twenty seven thousand only) per annum. The age of the appellant was 27 years, at the time of accident, hence, multiplier relevant for his age would be 17, hence $27 \times 17 = \text{Rs.4,59,000/-}$ (Rupees four lakhs fifty nine thousand only) would be the award towards loss of future earnings. The other grounds of the appellant are not seriously urged by the counsel and this Court also finds that the lower Court has awarded adequate amounts under the other heads.

In the result, the award of the lower Court stands enhanced to the extent of Rs.4,59,000/- (Rupees four lakhs fifty nine thousand only), which would come to Rs.8,74,175/- (Rupees eight lakhs seventy four thousand one hundred and seventy five only).

The interest awarded by the lower Court needs no interference as it is on par with the prevailing rate 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.

Date: 31-01-2017
LSK

JUSTICE SMT.T.RAJANI

