

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.827 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the petitioner in the tribunal below, against the order of the District Judge, Nellore in OP.No.40 of 2005 granting compensation of Rs.70,000/- with interest at 7.5% per annum from the date of petition till the date of realization.

2. The appellant urged that the tribunal below ought to have granted a sum of Rs.2,00,000/- towards medical expenses and ought to have adopted the multiplier in awarding the compensation; the tribunal ought to have accepted Ex.A4 and granted compensation for loss of earnings; the tribunal also ought to have accepted the disability as 15%, as deposed by P.W.2 and ought to have granted interest at 9% per annum.

3. During the hearing, both the counsels agreed for grant of compensation towards future earnings and towards loss of earning during the period of treatment, rest and recovery based on Ex.A4, which is the salary certificate, showing Rs.13,800/- as the salary of the appellant.

4. A perusal of the order of the tribunal would show that the tribunal did not believe the disability, as stated by P.W.2, considering that no disability was mentioned in the discharge summary Ex.A6. This Court is of the opinion that the disability would not be assessed at the time of discharge of the patient and hence, it would not be mentioned in the discharge summary.

5. However, the evidence does not show that the appellant was terminated from his services as lecturer and hence it is reasonable to assume that he is continuing in his job. Though the appellant counsel submits that the appellant developed pain in his leg and hence, he is not able to stand for long hours, considering that it did not result in loss of his job and consequently, loss of earnings, this Court is not inclined to consider the submission in awarding any compensation towards loss of future earnings. But the evidence of P.W.2, who is the Orthopedic Surgeon at Vijaya Health Care, shows that the appellant underwent open reduction and internal fixation of fracture right tibial plateau with buttress plate and screws with bone grafting. Hence, that would suggest that the appellant is likely to develop some disability, which would result in loss of future amenities to life. Hence, considering the nature of disability, which might have resulted in difficulty, in standing for long hours and squatting, this Court is inclined to award a sum of Rs.20,000/- towards loss of future amenities.

6. Mr. E. Venugopal Reddy, counsel for respondent – insurance company, fairly conceded to the opinion expressed by the Court that after discharge the patient would take at least three months for recovering from the injury and hence, three months can be taken as the period of treatment, rest and recovery. The counsel also did not object for relying on Ex.A4 for the purpose of taking the income of the appellant at Rs.13,800/- per month. Hence, the appellant would be entitled to compensation of $\text{Rs.13,800/-} \times 3 = \text{Rs.41,400/-}$ towards loss of income during the period of treatment, rest and recovery.

Hence, the compensation awarded by the tribunal stands enhanced by Rs.20,000/- + Rs.41,400 = Rs.61,400/-. In the result, the appellant is entitled to total compensation of Rs.70,000/- (awarded by the tribunal) + Rs.61,400 = Rs.1,31,400/-. This award shall relate back to the date of decree.

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

February 10, 2017
DSK

T. RAJANI, J

