

SMT JUSTICE T. RAJANI

MACMA.No.1129 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the V Additional District Judge, Nizamabad in OP.No.175 of 2005 dated 22.01.2008 on the grounds that the Court below awarded inadequate compensation of Rs.20,000/- only as against the claim of Rs.3,00,000/- and the compensation awarded by the Court below is not adequate to the injuries sustained by the claimant.

2. Heard counsel for the appellant. Counsel for the respondent remained absent.

3. The injuries sustained by the claimant, as evidenced by the injury certificate, Ex.A3, are fractures of right ankle, right shoulder clavicle and left forearm ulna apart from two simple injuries, which are in the form of abrasions and laceration. The Court below awarded Rs.200/- per day towards pain and suffering for 40 days, which came to Rs.8,000/-. P.W.2, who is the doctor, was examined. He exhibited indifference and irresponsibility by stating that he does not know as to what treatment he gave to the claimant and as to on what basis, he issued medical certificate, Ex.A3. He states that he could not trace out any record of treatment of P.W.1 and he could not state whether he maintained any case sheet for P.W.1.

4. The irresponsibility and indifference of the said doctor shall not be allowed to affect a claim, if it is found to be genuine otherwise. There is no dispute that the claimant sustained injuries in the accident

and the certificate issued by P.W.2 is very much available. Hence, the same can be relied upon to understand the fact of the injuries sustained by the claimant. The injuries, being fracture injuries, need to be adequately compensated for the consequent pain and suffering. Hence, the fracture of right ankle can be compensated with Rs.20,000/-; the fracture of right shoulder clavicle can be compensated with Rs.10,000/- and the fracture of ulna can be compensated with Rs.15,000/-. The injuries would also suggest that the claimant might have been unable to attend his work at least for a period of two months. The income of the claimant, as taken by the Court below, is found to be adequate; hence, $\text{Rs.3,000/-} \times 2 = \text{Rs.6,000/-}$ can be awarded towards loss of income during the period of treatment, rest and recovery. Apart from the above, considering the nature of injuries, another sum of Rs.10,000/- can be awarded towards transportation and other incidental expenses.

5. Hence, in all, the claimant is entitled to total compensation of $\text{Rs.20,000/-} + \text{Rs.10,000/-} + \text{Rs.15,000/-} + \text{Rs.6,000/-} + \text{Rs.10,000/-} = \text{Rs.61,000/-}$ with proportionate costs and the rest of the award is left uninterfered with. This award shall relate back to the date of decree and the awarded amount shall carry interest at the rate specified and from the time indicated in the award by the Court below.

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

T. RAJANI, J

August 16, 2017
DSK