

SMT JUSTICE T. RAJANI

MACMA.No.208 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the VIII Additional District Judge, Nizamabad in OP.No.1931 of 2002 dated 28.02.2007 on the grounds that the Court below did not award adequate compensation and it ought to have granted a sum of Rs.4,00,000/- instead of Rs.6,500/- for the grievous injuries sustained by the claimant.

2. Heard both sides.

3. This is a case of injuries sustained by the claimant in a motor accident. In order to prove the injuries, the claimant examined P.W.2, who is an Orthopaedic Surgeon in Nizamabad. He stated that the claimant sustained four injuries out of which one fracture to lumbar spine on the left side is grievous, while injuries 2 to 4 are simple in nature. The Court below by considering the veracity of P.W.2 disbelieved his evidence. But in the considered opinion of this Court, if the claim of the claimant is found to be otherwise genuine, the inability of P.W.2 to explain the injuries and the treatment properly and the discrepancies in his evidence, shall not affect a genuine claim.

4. The accident took place on 16.08.2002 and a report, in this case, was given to the police on the same day. A perusal of the report shows that one woman and others sustained injuries. It was also stated that the said woman was taken to hospital while others

sustained simple injuries and were treated as out patients. From the above, it can be gathered that the injuries sustained by the claimant in the case are grievous in nature and the said fact would lend support to the evidence of P.W.2. Hence, injuries, as stated by P.W.2, need not be disbelieved.

5. Hence, considering the above, this Court is inclined to award a sum of Rs.20,000/-, apart from the amount granted by the Court, below towards pain and suffering. The Court below did not award any amount towards loss of income or incidental expenses. Considering that the claimant was treated in the hospital from 16.08.2002 to 26.08.2002 and also considering that she sustained a fracture injury, this Court opines that the claimant might not have been able to attend to duty at least for a period of two months and considering that Rs.3,000/- was taken as her monthly salary, an amount of Rs.3,000/- x 2 = Rs.6,000/- is awarded towards loss of income during the period of treatment, rest and recovery. Further, a sum of Rs.5,000/- is awarded towards incidental expenses, which the claimant might have incurred towards transportation etc. Hence, in all, the award of the Court below stands enhanced by Rs.31,000/- (Rs.20,000/- + 6,000/- + Rs.5,000/- = Rs.31,000/-). Hence, in all, the claimant is entitled to total compensation of Rs.6,500/- (awarded by the Court below) + Rs.31,000/- (enhanced amount) = Rs.37,500/-.

7. Hence, the award of the Court below is modified as indicated above with proportionate costs. The award shall relate back to the date of decree and the enhanced compensation awarded shall carry the interest at the rate and from the date specified by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

July 6, 2018
DSK

T. RAJANI, J

