

SMT JUSTICE T. RAJANI

MA CMA No.248 of 2012

JUDGMENT:

This appeal is preferred by the appellant/claimant, assailing the judgment of the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Kadapa, dated 19.05.2007, in MVOP No.162 of 2004, on the grounds that the court below did not award compensation towards permanent disability in spite of the evidence of PW2, who is a qualified Orthopaedic Surgeon; it erred in holding that he did not state about the permanent disability; the court below erred in not placing reliance on Ex.A4-disability certificate which shows 25% disability.

2. Heard both sides.

3. This is a case of injuries sustained by the claimant in the motor accident. The injuries are stated to be a fracture of right leg. The evidence of PW2, which is that of Orthopaedic Surgeon, is very much adduced and he categorically stated that the disability is 25% and in Ex.A4, the nature of disability is also mentioned as restriction of movements of ankle joint. There is absolutely no difficulty in understanding that the petitioner sustained disability. He is stated to be an agricultural labourer and the restriction of movement of ankle joint would certainly affect his income. The income is taken by the court below as Rs.3,000/-, which is not assailed by the appellant's counsel. Hence, the same is taken for calculating the loss of future

income. 25% of Rs.3,000/- would come to Rs.750/- per month. The loss of annual income would come to Rs.750/- X 12 = Rs.9,000/-. The multiplier relevant for the age of the claimant i.e., 50 years, as per the ruling of the apex court in *Sarla Verma* v. *Delhi Transport Corporation*¹, is '13'. Hence, Rs.1,17,000/- { i.e., Rs.9,000/- X 13} is awarded towards loss of income due to permanent disability by the petitioner.

4. Hence, the award stands enhanced to the extent indicated above and the rest of the award shall remain in tact. 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.

Accordingly, the MACMA is partly allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

July 13, 2018
LMV

¹ (2009) 6 SCC 121