SMT. JUSTICE T.RAJANI

MACMA. No.1838 of 2012

JUDGMENT:

This appeal is preferred by the New India Assurance Company Limited, assailing the order dated 05.01.2012 passed in O.P. No.2200 of 2009 by the XI Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, on the grounds that the Court below awarded excessive amount under the heads of pain and suffering and also towards medical expenses and also granted interest at the rate of 12% per annum, which is not sustainable.

Heard the learned counsel on either side and perused the material on record.

This is a case of injuries sustained by the claimant in a motor accident that occurred on 09.10.2008. It is his case that while he was going on his Hero Honda motor cycle, on the left side of the road, another motor cycle bearing No.AP 24 S 3819 came in opposite direction rashly and negligently and dashed the claimant and caused the accident, wherein the claimant sustained grievous injuries to his face.

On behalf of the respondents, before the Court below, a counter came to be filed denying the averments of the claim petition.

The Court below, considering the rival pleadings, framed appropriate issues and during the course of trial, examined P.Ws.1 to 3 and got marked Exs.A-1 to A-9 on behalf of the claimant. None were examined but Ex.B.1 was got marked on behalf of the respondents. After considering the evidence on record, the Court below awarded Rs.1,34,500/- with interest at 7.5% per annum from the date of claim petition till the date of deposit, which was to be within one month and if the amount is not deposited it was specified that the interest would be 12% per annum from the date of petition till the date of deposit.

The learned standing counsel for the appellant firstly contends that the rate of interest granted by the Court below is not on par with the uniform rate of interest that is usually granted from the date of petition till its realization, but the Court below granted 12% per annum interest from the date of petition till its deposit, which cannot be sustained. In this regard, in the considered opinion of this Court such approach seems to be far away from the usual course of practice adopted by the Courts. Hence, the rate of interest shall be modified to be at the rate of 7.5% per annum from the date of petition till its deposit.

The counsel for the appellant submits that as regards the amounts granted by the Court below also absolutely there is no uniformity in the order. The main attack of the learned standing counsel is with regard to Rs.1,00,000/-, which was granted towards medical expenses. This Court observes that the claim of the claimant for medical expenditure is based on Ex.A-5, which is an inpatient bill for Rs.1,01,635/-. The Court below observed that the aforesaid bill had 13 specific categories of charges and the claimant filed bills about 20 supporting all charges. Hence, in such circumstances, granting of Rs.1,00,000/- towards medical expenditure cannot be found fault with. Further, the amounts granted under other heads are also found to be not more than adequate.

In the result, to the extent indicated above, the appeal is partly allowed.

Consequently, miscellaneous applications, if any, pending shall stand closed.

JUSTICE T. RAJANI

Date: 10.08.2018
LSK