

SMT JUSTICE T. RAJANI

MA CMA No.47 of 2012

JUDGMENT:

This appeal is preferred against the judgment, dated 20.10.2011, passed by the IX Additional District Judge (FTC)– cum-Motor Accidents Claims Tribunal at Visakhapatnam, in MOP No.1132 of 2008.

2. The court below, though accepted that the petitioner suffered a major accident, awarded only Rs.66,000/- towards loss of salary and under the other heads also meagre amounts were awarded.

3. Heard both the counsel.

4. This is a case where the petitioner sustained fracture injuries in a motor accident, which occurred on 26.10.2007. The fracture is in the form of lower 1/4th left tibia and segmental fracture left fibula. The court below awarded Rs.25,000/- towards pain and suffering, which cannot be considered as meagre. But the attack on the judgment is with regard to the amount granted towards loss of earnings during the period of treatment and the failure to grant any amount in consideration of disability.

5. With regard to the first contention, it can be seen in paragraphs 9 and 12 of the judgment that the court observed that the petitioner sustained a major fracture and that for nearly 2 years he was suffering with the injury for one reason or the

other. It also shows that the same is evidenced by the medical record. Hence, there need not be any reason for the court to restrict the period to six months and to award only Rs.66,000/- towards loss of earnings. The court below has taken the income of the petitioner as Rs.11,000/-. Hence, the loss of income for a period of two years would come to Rs.2,64,000/-, out of which Rs.66,000/- can be deducted, which would work out to Rs.1,98,000/-. The same is further awarded towards loss of income during period of treatment.

6. As regards the disability sustained by the petitioner, there cannot be any fault found with the appreciation made by the court below. It was also observed that though the disability certificate was filed, it is not clear as to the nature of disability and as to the leg, which suffered the disability. It also noted that Ex.X3 shows the condition of the patient as satisfactory and Ex.X5, which is the case sheet, shows that the condition of the patient as satisfactory and the fracture was united. In the above circumstances, the court below disbelieved the disability certificate.

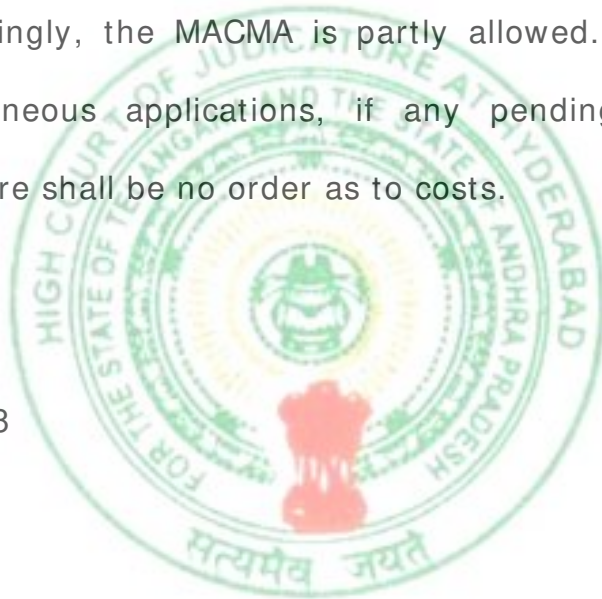
7. It can also be seen that the court below awarded only Rs.2,000/- towards transportation expenditure, as against the claim of Rs.10,000/- which seems to be very meagre. Admittedly, the petitioner sustained fracture injuries and it is probable that he would have incurred expenses for going to and from the hospital. Hence, the remaining of Rs.8,000/- is also granted towards transportation charges.

8. In all, the appellant is entitled to an enhanced compensation of Rs.2,06,000/- i.e., Rs.1,98,000/- (loss of earnings) + Rs.8,000/- (transportation charges).

9. 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.

July 20, 2018
LMV



T. RAJANI, J