

SMT JUSTICE T. RAJANI

MACMA.No.207 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the II Additional Chief Judge, City Civil Court, Hyderabad in OP.No.2358 of 2004 dated 04.10.2006 on the grounds that the Court below did not award adequate compensation under various heads and that it ought to have granted a sum of Rs.34,000/- towards the medical expenses and it ought to have considered the disability as 20% and ought to have granted amount towards loss of future income.

2. Heard both sides.

3. The claimant is stated to have sustained fracture injury to his left arm, in a motor accident. The Court below awarded Rs.20,000/- towards pain and suffering; Rs.15,000/- towards loss of amenities by considering 20% disability and another sum of Rs.5,000/- for superficial injury; Rs.20,000/- towards medical expenses and an amount of Rs.10,000/- towards loss of income for a period of two months.

4. The counsel for the claimant contends that though prescriptions do not match medical bills, the medical bills pertain to the medicines, which are not disputed to have been used for the treatment of injuries sustained in this motor accident.

5. Hence, from the nature of the injury, this Court is of the opinion that the claimant might have incurred the expenditure under Ex.A7 to

an extent of Rs.34,000/-. Hence, as the Court below awarded Rs.20,000/- towards medical expenses, another sum of Rs.14,000/- is awarded towards medical expenses.

6. The Court below awarded Rs.15,000/- only towards loss of amenities of life. This Court opines that the Court below declined to believe the evidence of P.W.2 with regard to disability, by considering that the evidence of P.W.1 did not support the evidence of P.W.2, as he did not complain of the disability as stated by P.W.2. However, it is noted in the judgment that P.W.1 stated that he is not able to move his left hand or ride the scooter. Hence, considering the same, another sum of Rs.20,000/- is awarded towards loss of future amenities of life. However, since the affect of disability on the income of the claimant is not stated, this Court is not in a position to award any amount towards loss of income due the said disability. Hence, the award of the Court below stands enhanced by Rs.34,000/- (Rs.14,000/- + Rs.20,000/- = Rs.34,000/-). Hence, in all, the claimant is entitled to total compensation of Rs.70,000/- (awarded by the Court below) + Rs.34,000/- (enhanced amount) = Rs.1,04,000/-.

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.

T. RAJANI, J

July 6, 2018/DSK