

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

M.A.C.M.A. No.3969 of 2008

JUDGMENT :

This appeal is preferred by the appellant/claimant aggrieved by the order passed by the XI Additional Chief Judge, City Civil Court, Fast Track Court, Hyderabad in O.P.No.735 of 2003, dated 27.01.2006.

2. Learned counsel for the appellant submits that the appellant filed O.P.No.735 of 2003 seeking compensation of Rs.1,00,000/- and the Court below has granted only an amount of Rs.17,500/-. It is submitted that on 10.11.2002 when the appellant was crossing the road, the bus of the respondents driven by the driver rashly and negligently, dashed him and as a result of which, he sustained grievous head injury and other bleeding injuries all over the body. The appellant was hospitalized, lost earnings and incurred expenditure on medicines and treatment, suffered pain and partial permanent disability. The Court below, without considering all these aspects, has granted compensation of Rs.17,500/-. It is submitted that the appellant was admitted in the hospital on 10.11.2002 with concussia injury and was treated there and discharged on 19.11.2002. Thereafter, the appellant was admitted in another hospital and took the treatment. The Court below has only considered

the said head injury, but however failed to grant compensation. Learned counsel submits that when it comes to loss of earnings, the appellant has claimed for 3 ½ months but the Court below taking into consideration the income at Rs.2,000/- per month for a period of one month and awarded an amount of Rs.2,000/-. He submits that for transportation, the Court below has awarded only an amount of Rs.1,000/-. The minimum amount under this head could be Rs.5,000/- and for extra nourishment and medicine, the appellant claimed an amount of Rs.20,000/-, but the Court below granted an amount of Rs.7,000/-. For the pain and suffering, the appellant has claimed an amount of Rs.35,000/-, but the Court below has granted only an amount of Rs.7,000/-. The appellant has also claimed partial permanent disability and claimed an amount of Rs.35,000/-, but the same was not considered by the Court below.

3. Sri T.Srinivas, learned Standing Counsel, submits that the appellant though stated that he has suffered head injury and sustained other injuries, no medical bills were filed and no evidence is let in. As such, the Court below has rightly awarded an amount of Rs.17,500/- to

the appellant.

4. Heard learned counsel on either side and perused the material on record. The Court below has taken the income of the appellant as Rs.2,000/- per month. The Hon'ble Apex Court in ***Ramachandrappa Vs. Manager, Royal Sundaram Alliance***¹, in the similar set of circumstances, where, the deceased therein was a labourer and the Tribunal has rejected to consider the monthly income of the deceased as Rs.4,500/- and the Apex Court has held that the labourer cannot produce any evidence for his daily income and Rs.4,500/- is a reasonable income. Taking this taken into consideration, the appellant is entitled for one month for loss of earnings at Rs.4,500/-, transportation charges at Rs.5,000/- and for extra nourishment he is entitled for an amount of Rs.10,000/-. The appellant has suffered a head injury and that CT scan of brain was done and was advised costly medicines, he is entitled for an amount of Rs.40,000/- towards pain and suffering. The Court below has not granted any amounts towards attendant benefits and for that he is entitled to Rs.10,000/-.

¹ (2011) 13 SCC 236

5. In view of the same, the appeal is allowed in part by enhancing the compensation under the following heads:

1.	Loss of earnings	:	Rs.	4,500/-
2.	Attendant benefits	:	Rs.	10,000/-
3.	Pain and suffering	:	Rs.	40,000/-
4.	Extra nourishment	:	Rs.	10,000/-
5.	Transportation charges	:	Rs.	<u>5,000/-</u>
TOTAL		:	Rs.	<u>69,500/-</u>

(a) The claimant is entitled for interest of 7.5% on the enhanced amount of compensation from the date of petition till the date of realization.

(b) The respondent Insurance Company shall deposit the amount within a period of eight weeks from today. On such deposit, the appellant is entitled to withdraw the amount. No order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

LALITHA KANNEGANTI, J

January 24, 2023

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