HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

M.A.C.M.A.No.3940 of 2012

JUDGMENT:

This appeal is preferred by the appellant/claimant aggrieved by the quantum of compensation awarded by the Special Judge for the Trial of Offences under SCs & STs (POA) Act-cum-VI Addl. Metropolitan Sessions Judge-cum-XX Addl. Chief Judge, Secunderabad in M.V.O.P.No.163 of 2002 on 029.01.2005.

2. Heard Mr. Subbagari Sudarshan Reddy, learned counsel appearing for the appellant/claimant and Mr. Kota Subba Rao, learned Standing Counsel appearing for the respondent-Insurance Company.

3. Learned Counsel of for appellant/claimant submits that the accident took place on 14. 05.2002 while appellant/claimant was travelling in their milk van and that the driver of the lorry came in a rash and negligent manner and dashed the appellant/claimant's vehicle and in the said accident, he has sustained injuries and as on the date of accident, he was aged about 22 years and working as an employee in Jersey Milk Products Company and earning an amount of Rs.2725/-. It is submitted that doctor gave the evidence that the petitioner has sustained 55% disability in the said accident but the Court below has only taken 15%. When there is a certificate issued by the Doctor and the said Doctor was examined, the Court below ought to have taken the disability at 55 %. He submits that the income of the appellant/claimant was also taken as

Rs.1800/- Further, the compensation that is granted on the other heads is not a reasonable compensation.

4. Learned Standing Counsel appearing for the respondent-Insurance Company submits that the Tribunal has given a finding that basing on the evidence of the hospital authorities the doctor who has treated the petitioner is not the doctor who has deposed before the Court below and though the said suggestion was denied by the Doctor who was examined, the Court below has rightly considered the evidence and shortening of the leg does not amount to 55% of the disability and disbelieving the evidence, the Court below has taken the disability at 15%. He submits that the said conclusion arrived at by the Tribunal was based on the evidence. It is submitted that the petitioner could not place any evidence to show that he was earning an amount of Rs.2725/- per month. As such, the Court below rightly took the income at Rs.1800/-. He submits that none of the grounds that are raised by the appellant/claimants warrants interference of this Court.

5. The case of the appellant/claimant is that basing on the evidence of the Doctor, he has sustained 55% disability. This Court has perused the judgment and as per the judgment, the Doctor who has given the certificate is not the one who has treated them. Taking that into consideration, this

Court finds no illegality with the finding of the court that the evidence cannot be believed and he has suffered only 15% disability. Coming to the income as he is a supervisor and even a daily wage labours' income is taken as Rs.4500/- per month by the Hon'ble Apex Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited***[1] case. As claimed by the claimant, an amount of Rs.2725/- can be taken as his monthly income and 40% future prospects would come to Rs.1090/- and Rs.3815/- would be the income of the appellant/claimant and the multiplier applicable is 18X12 would come to Rs.8,24,040/- and the disability at 15 % would come to Rs.1,23,606/- , for pain and suffering Court below has already granted Rs.15,000/- and for medical bills Rs.3000/- on both these counts, the court below has granted a reasonable amount. Hence this Court is not inclined to interfere in those two heads. Coming to the loss of earnings for a month, he is entitled for Rs.2725/-, for attendant benefits Rs.10,000/-, for extra nourishment Rs.10,000/-, for legal expenses Rs.10,000/- and for transportation Rs.10,000/- and the total amount of compensation would come to Rs.1,84,331/-

6. In view of the above discussion, the appellant is entitled for the compensation under the following heads:-

[1] (2011)13 Supreme Court Cases 236

1)	Loss of income due to disability(2725+40%X 12X18X15%)	=	Rs. 1,23,606/-
2)	Pain and suffering	=	Rs. 15,000/-
3)	Medical bills	=	Rs. 3000/-
4)	Loss of earnings	=	Rs. 2725/-
5)	Attendant benefits	=	Rs. 10,000/-
6)	Extra nourishment	=	Rs. 10,000/-
7)	Legal expenses	=	Rs. 10,000/-
8)	Transportation	=	Rs. 10,000/-
	Total	=	Rs. 1,84,331

7. In the result, the Motor Accident Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Court below from Rs.55,000/- to Rs.1,84,331/-.

(a) The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization.

(b) Appellant/claimant shall pay the court fee on the enhanced amount.

(c) The respondent shall deposit the amount into Court within (8) weeks from the date of receipt of copy of the judgment. On such deposit,

the appellants/claimant are permitted to withdraw entire amount without furnishing the security.

Miscellaneous applications, pending if any, shall stand closed.

LALITHA KANNEGANTI, J

22nd February, 2023

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