



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.12.2020

Delivered on : 11.01.2021

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (MD). No. 16258 of 2020

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Sindhu @ Sindhu Lakshmi

... Petitioner

Versus

- 1.The Principal Secretary,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Chennai 600 034.
 - 2.The Principal Chief Conservator of Forests (Head of Forest Force)
Panagal Maaligai,
No.1, Jeenis Road,Saidapet,
Chennai 600 015.
 - 3.The Commissioner,
Hindu Religious and Charitable Endowments,
119, Uthamar Gandhi Road,
Chennai 600 034.
 - 4.The Joint Commissioner / Executive Officer,
Arulmigu Maariamman Temple, Samayapuram,
Samayapuram, Trichy District.
 - 5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy, Trichy - 620 002.
 - 6.The District Forest Officer,
Trichy Division,
Court Campus, Cantonment Compound,
Trichy - 620 001.
 - 7.The District Collector,
District Collector, Trichy District.
 - 8.The Inspector of Police,
Samayapuram Police Station,
Samayapuram, Trichy District.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to provide a job to the petitioner based on the petitioner's educational qualification within a stipulated time that may be fixed by this Court for the grave physical injuries, mental injury, emotional sufferings and permanent



disability caused by the fourth respondent's temple elephant.

For Petitioner : Mr. A. Rahul
For Respondents : Mr. K.P. Narayanakumar
Special Government Pleader
(for RR1, 2, 3, 5, 6, 7 and 8)
: Mr. R. Murali
for Mr. K. Govindarajan (for R4)

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ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus directing the respondents to provide a job to her based on her educational qualifications within a stipulated time for the grave physical injuries, mental injury, emotional sufferings, and permanent disability caused by the fourth respondent's temple elephant.

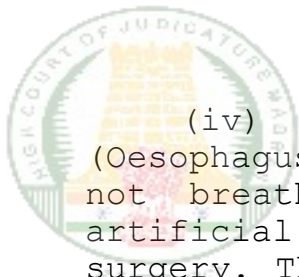
2. With the consent of counsel on either side, this Writ Petition has been taken up for final disposal.

3. Brief facts of the case:-

(i) When the petitioner was around three years old, on 03.10.1999, she visited Arulmigu Samayapuram Mariyamman Temple along with her father L.Rajendran, mother Kalaivani, brother Sivaraman and uncle Subramaniam to worship the Goddess Samayapuram Mariyamman. When they were returning from the *Sanctum Sanctorum* after worship, inside the temple, a belligerent temple elephant had become highly aggressive and all the devotees had started running *helter-skelter* to protect themselves. At the time, the temple elephant had attacked the petitioner and her mother with its tusk, as the result, both fell on the floor and thereby the petitioner had sustained severe injuries on her throat. Due to such attack, the petitioner suffered bleeding injuries on her neck and she screamed due to excruciating pain.

(ii) After this horrific incident and the traumatic injuries on her throat, she and her mother were admitted to Sea Horse Hospital, Trichy. The Doctors, on examination, named the injury suffered by the petitioner as "Laryngol Pharyngeal Traumatic Injury". The doctors had informed her father that the petitioner's windpipe and food pipe were completely damaged. The petitioner had taken treatment there for quite some time and thereafter, she was admitted in various hospitals such as Vellore Christian Medical Hospital, Apollo Hospital, Chennai, Rajiv Gandhi Government General Hospital, Chennai, KKR ENT Hospital, Chennai, Medical College Hospital Thanjavur and Madurai Rajaji Government Hospital, on different occasions.

(iii) Though the petitioner had taken treatment in many hospitals, all the doctors, after thorough examination, had opined that surgery will not be possible, since the same would pose a serious risk on the petitioner's life.



(iv) Due to the reason of fragmentation of the food pipe (Oesophagus) and the windpipe (Trachea) of the petitioner, she could not breathe normally. But she has been breathing through an artificial tracheal tube inserted in her throat by way of medical surgery. The petitioner could not take solid food except the liquid food. She had lost her speech as well.

(v) On 07.10.1999, the petitioner's father lodged a police complaint at Samayapuram Police Station, based on which, the First Information Report has also been filed in Crime No.451 of 1999, relating to the incident that had taken place when the petitioner along with her family members were returning from the *Sanctum Sanctorum*, inside the Temple and the injuries sustained by the petitioner and her mother.

(vi) On 09.10.1999, a news item was published wherein it was stated that due to the attack of the elephant by its tusk, the throat of a child was damaged on 03.10.1999. In the said news clippings, a photograph of the child along with her father and mother, when she was taking treatment in the hospital had also been published.

(vii) On 10.10.1999, a news item was also published in a newspaper along with the photograph of the child and the Collector of Trichy District, who visited the hospital to enquire about the child's health.

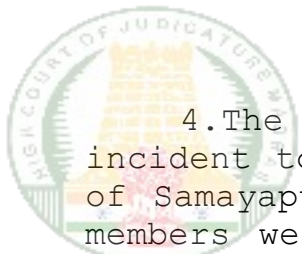
(viii) On 29.06.2013, a news item was published in a newspaper wherein the sufferings of the petitioner was narrated for the past 14 years.

(ix) In the discharge summary issued by Christian Medical College Hospital, Vellore, it has been stated that in the final diagnosis as "follow up an elephant hit, injury neck with the status of esophagostomy, tracheostomy". In the history, it has been stated that 'this child was admitted here one month back following up injury at the neck (from the trunk of an elephant)'.

(x) On 30th July 2019, when the petitioner was issued with outpatient slip by Thanjavur Medical College Hospital, the history of the injury has been stated briefly as 'the case of neck trauma crush injury by an elephant at the age of 3 years, underwent evaluation and re-constructive surgery in Christian Medical College, Vellore.

(xi) According to the petitioner, she has been continuously taking treatment and all the hospitals, on examining her, had categorically stated that the petitioner sustained crush injury in her neck, due to the elephant attack when she was 3 years old.

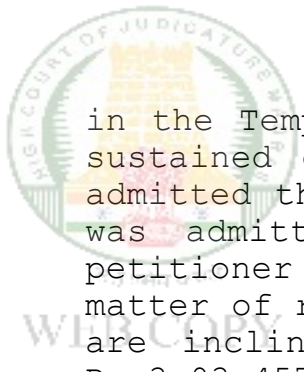
(xii) The petitioner has given several representations on various dates viz., 14.08.2003; 12.06.2005; 15.06.2005; 23.04.2008; 24.03.2013; 11.11.2013; 12.06.2019 and 18.12.2019 to the respondents for monetary compensation and for employment as the State is vicariously liable for the negligence on the part of the Mahout, who is working under the respondents. The respondents being employer, is responsible for the negligence on the part of its employees.



4.The learned counsel for the petitioner submitted that the incident took place on 03.10.199 at 10.15 am., within the precincts of Samayapuram Mariamman Temple when the petitioner and her family members were returning from the *Sanctum Sanctorum*. At that time, the petitioner and her mother were attacked by a belligerent elephant due to which the petitioner sustained crush injuries in her neck. The Collector, who is an administrator of the District, visited the petitioner when she was taking treatment in the hospital after a period of seven days. Since the incident took place due to the elephant attack within the Temple premises, the respondents are vicariously liable to compensate the petitioner, monetarily as well as by offering her an employment in any Departments of the Government. Further, the doctors have opined that there is no possibility to restore the speech and normal breathe by way of surgery, thus, she has to breathe only with the help of the artificial tracheal tube, until her last breathe.

5.The learned counsel for the petitioner also submitted that the petitioner's father is working in a transport corporation and his earning would not be sufficient to maintain his day-to-day life and his family. Even with this poor financial background, the petitioner's father has been taking care of her medical expenses from the year 1999 to till date. On the other hand, the Government has not come forward even to bear the medical expenses incurred by the petitioner's father. The petitioner's family is under severe financial stress and it is very difficult to meet the future medical needs of the petitioner and for her emergency care. The petitioner has to maintain herself in the future with these disabilities. If the respondent provides a job to the petitioner on compassionate ground, these financial issues will be mitigated to some extent and it would help the petitioner to lead her life on her own without the help of others. The learned counsel would further submit that as the petitioner suffered for the past 20 year with the above disabilities, in order to maintain her future life she needs a job on compassionate ground as well as monetary compensation. Therefore, the petitioner seeks for issuing appropriate direction to the respondents to provide an employment to the petitioner on compassionate grounds.

6.Per contra, Mr. K.P. Narayana Kumar, learned Special Government Pleader appearing for the respondents have filed their counter affidavit stating that the elephant has been properly maintained by the temple, however, at the time of occurrence, the Mahout had left the place for taking his breakfast. The brother of the Mahout and Assistant Mahout took care of the elephant for some time. At that time, Assistant Mahout unexpectedly fell down. Therefore, the bystanders wrongly assumed as if the elephant got aggressive and pounced. mahout. With such a wrong impression, the devotees rushed from that place and in that process, petitioner's mother along with petitioner fell down in a garbage vehicle parked



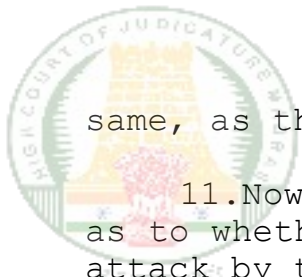
in the Temple premises. It is in that process, the petitioner had sustained crush injury on her neck. However, the respondents have admitted the fact that the child got injuries in the throat and she was admitted to the hospital for treatment. At any cost, the petitioner does not have any right to ask for any employment as a matter of right, however, on a humanitarian grounds the respondents are inclined to reimburse the medical expenses to an extent of Rs.3,93,457/-.

7.Mr. R. Murali, learned counsel appearing for the fourth respondent would submit that the incident took place on 03.10.1999, not due to the reason of violent behavior of the elephant, but it was due to the reasons that the Assistant Mahout fell down, therefore, the people started to run here and there. It is in those circumstances, the petitioner along with her mother fell down in a Garbage Carrier Vehicle and sustained crush injury on her neck. Therefore, the respondents are not responsible for the present incident as the petitioner did not sustain injury in her neck, due to the elephant attack. In fact, no one has informed anything about the incident to the temple administration. However, they fairly submitted that they are ready to reimburse the petitioner's medical expenses to the tune of Rs.3,93,457/- on humanitarian ground. Hence, the learned counsel submits that this writ petition is not maintainable and it is liable to be dismissed.

8.Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

9.Both parties have admitted the fact that the petitioner sustained serious injuries on 03.10.1999 within the precincts of Samayapuram Mariamman Temple when they came to worship the Goddess Mariamman. According to the petitioner, she suffered injuries in her throat, due to elephant attack, but it was denied by the respondent stating that Assistant Mahout fell down near the elephant, which was mistaken by the devotees as if he was pounced by the elephant and they ran *helter-skelter*.

10.Thus, it is clear that the incident took place at the Temple premises, on 03.10.1999, due to the reason, either on the fear of the elephant attack among the devotees or by physical attack by the elephant, but the incident was a result of the consequences of the behaviour of the Temple Elephant. Due to the injuries sustained, the petitioner was admitted to Sea Horse Hospital, Trichy, where she took treatment. Thereafter she has been taking treatment in various hospitals from time to time till date. She is also qualified in B.E., graduation in Computer Science and now she attained the age of 23 years. Due to the injuries, the petitioner is not in a position to breathe normally but with the help of an artificial tracheal tube. She also become dumb, unable to eat solid food but only liquid food. All these facts are admitted and no one has denied the



same, as they are borne out of medical records.

11. Now, one aspect that has to be ascertained by this Court is as to whether the injuries sustained by the Petitioner is due to the attack by the Elephant or not?

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12. To trace out the truth, this Court has taken pain of perusing so many documents and also the counter affidavits filed by the respondents, which I would like to discuss one by one hereinafter.

13. On 03.10.1999, the incident took place at 1.15 a.m., Immediately after the occurrence, the petitioner was admitted at Sea horse hospital, Trichy. This fact was admitted by both parties and in fact, a perusal of the statement of Mahout, dated 03.10.1999, which was filed by the respondents, would show that he made all the arrangements for first aid and surgery for the petitioner in the hospital, which would only show that the incident occurred due to the attack of the Elephant. If it is not so, there was no need for the Mahout to visit the child at hospital and make all arrangements for her first aid and surgery. The fact remains that since the incident occurred due to the elephant attack, the Mahout's conscious did not allow him to stay back in the Temple without visiting the child and to make necessary arrangements for her first aid and surgery.

14. Secondly, the Mahout in his statement dated 03.10.1999 has stated that when he was having food at 10.00 a.m., his brother Ravi and his assistant Mahout were standing near the Elephant. At that point of time, both the legs of the Elephant were chained. Therefore, he said that the Elephant cannot move anywhere. At about 10.15 a.m., the Assistant Mahout crawled in between the legs of the Elephant to pick the bananas. At that time, due to the movement of the Elephant, the stomach part of the Elephant hit the Assistant Mahout thereby he fell down.

15. The Joint Commissioner of the Temple has also sent a communication to the Special Commissioner and Commissioner, dated 04.10.1999, wherein he has narrated the incident on the same way, as stated by the Mahout in his statement dated 03.10.1999. Whereas, in the counter filed by the third respondent at paragraph No.6, it has been stated as follows:-

*"6. On a particular day namely on 03.10.1999, the elephant was as usual tied with proper iron chains in both the legs and taken care of by the Mahout and Assistant Mahout. **At about 10.15 a.m., the Assistant Mahout by accidentally fell near the elephant legs but he has not got any injury by the Elephant.** The bystanders wrongly assumed the same as if the elephant got aggressive and by false imagination there was a chaos*



among the devotees and thereby the devotees rushed out of the said place."

16.The statements of the Mahout dated 03.10.1999; the communication of the Joint Commissioner dated 04.10.1999 and the counter affidavits of respondents 3 and 4 are contrary to each other. This would show that the respondents are only attempting to cover up the Elephant attack on 03.10.1999 and are making different statements from time to time. Therefore, this Court is unable to find any truth in the statements of the respondents as well as the statements of Mahout and the Joint Commissioner.

17.Thirdly, a news items was published in the newspaper dated 09.10.1999, wherein it has been stated that due to the attack of the elephant by its tusk, the throat of a child got damaged on 03.10.1999. In the said news clippings, a photograph of the child along with her father and mother, when she was taking treatment in the hospital, has also been published. It was published that the petitioner sustained injuries due to the Elephant attack and she was taking treatment in the hospital.

18.A perusal of the news item dated 10.10.1999, would show that as the petitioner sustained neck injuries due to the reason of Elephant attack, the Collector, Trichy District, visited the petitioner and enquired about her health condition. If the petitioner sustained injuries on her own, as narrated by the respondents, a Collector of the District is not required to visit the petitioner after 7 days of the incident. The Collector of the District without enquiring the fact properly would not have visited the hospital to enquire the child after 7 days of the occurrence in the hospital, which would be sufficient to prove the incident of the elephant attack.

19.Apart from the above, the petitioner was admitted to Vellore Medical College Hospital and in the discharge summary, it has been stated in the final diagnosis that 'follow up elephant hit injury neck with status esophagostomy, tracheostomy'. In history, it has been stated that 'this child was admitted here one month back following up injury to the neck (from the trunk of an elephant)'.

20.The documents produced before this Court have proved that the petitioner suffered injuries due to the reason of the Elephant attack on 03.10.1999, and the same cannot be disputed anymore. The reason for the incident of elephant attack was due to the sheer negligence on the part of the Mahout of the fourth respondent temple.

21.In light of the above facts, there are two issues that arise for consideration before this Court:-



a. First, on account of the injury suffered, normal life of the petitioner is completely shattered, while so, whether the petitioner is entitled for compassionate appointment?

b. Whether the equitable/inherent jurisdiction of this Court under Art.226 of the Constitution can be exercised to grant compensation to the petitioner?

22.The term 'life' contained in Article 21 of the Constitution has undergone a complete transition in the last few decades by the wide interpretation given by the Supreme Court, and this Court in a long line of landmark precedents. 'Life' does not mean mere survival or living an immobile or animal existence.

23.It is the basic expectation of every human being to live a healthy and active life. If such expectation is breached due to the negligence of the State or its agencies, then it becomes an obligation of the State to do the needful for restitution of the person who has suffered due to the negligence of his servants. This is the reason why this Court exercises its equitable/inherent jurisdiction conferred under Article 226 of The Constitution of Indian in appropriate cases by granting compensation and thereby come to the rescue of persons whose right to life has been impaired or affected due to the negligence of the State or its instrumentalities.

24.In such case, compensating the injured is inevitable. The compensation can be broadly divided into two- (1).The compensation claimed under private law and (2) compensation claimed under public law for a violation of fundamental rights.

25.In the present case, it falls under the second category, as the petitioner sustained injuries due to the negligence of the respondents. The compensation being claimed by the petitioner is for violation of fundamental rights guaranteed to her under the Constitution.

26.The Hon'ble Supreme Court in **NILABATI BEHERA (Smt) alias LALITA BEHERA v. STATE OF ORISSA**, reported in **1993 (2)SCC 746**, observed that 'the award of compensation in a proceeding under Article 32 or Article 226 of the Constitution of India is a remedy available in public law, based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply, even though it may be available as defence in private law in an action based on tort'. The Hon'ble Supreme Court at paragraph No.17, has held as follows:-

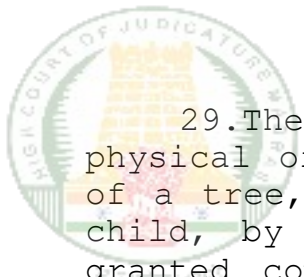
"It follows that 'a claim in public law for compensation' for contravention of human rights and fundamental freedoms, the protection of which is



guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is 'distinct from, and in addition to, the remedy in private law for damages for the tort' resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Articles 32 and 226 of the Constitution. This is what was indicated in Rudul Sah and is the basis of the subsequent decisions in which compensation was awarded under Articles 32 and 226 of the Constitution, for contravention of fundamental right."

27.The Division Bench of the Bombay High Court in the case of **Umakant K.Mane vs The Dean, Rajawadi Municipal Hospital & Anr** reported in **(2016) 2 Mah LJ 266** while considering a case where the petitioner had lost his fingers in the right hand due to the negligence of the hospital, held that the Hospital was guilty and liable for the payment of compensation. The Court, in exercise of its writ jurisdiction granted a compensation of Rs.10 lakhs plus accumulated interest which worked out to about Rs. 21.82 Lakhs.

28.The constitutional bench Judgment of the Hon'ble Supreme Court in **M.C.METHA v. UNION OF INDIA**, reported in **1987 (1) SCC 395**, held that 'we need not feel inhibited by technical considerations surrounding the rule in *Rylands Vs. Fletcher* (1868) L.R.3 H.L. 330 and that we have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialized economy. They, therefore, held that where an enterprise is engaged in a hazardous or inherently dangerous and harm results to anyone on account of an accident in the operation such hazardous or inherently dangerous activity resulting, for example, in the escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-a-vis the tortious principle of strict liability under the rule in *Rylands Vs. Fletcher*.'



29.The Supreme Court and this Court in many cases of death or physical or bodily impairment caused due to electrocution, falling of a tree, collapse of school compound wall, drowning of a school child, by exercising Power under Article 32 and Article 226 has granted compensation in Writ Petitions. In the case of **State of Himachal Pradesh & Ors., v. Naval Kumar alias Rohit Kumar** reported in (2017) 3 SCC 115 while considering a case where a young boy aged about 8 years suffered electrocution and was forced to amputate both his hands, modified the compensation ordered by the High Court in a Writ Petition and held that:-

"17) In our considered view, taking into consideration the facts and circumstances of the case such as respondent's family background his age (8 years), nature of permanent disability suffered by the respondent, his performance in studies, the determination of monthly/ yearly income made by the High Court, expenses incurred and all the relevant factors, which are usually taken into account in awarding compensation to the victim, the respondent is held entitled for a total lump sum compensation of Rs.90,00,000/(Ninety lacs) together with interest payable at the rate of 6% p.a. in place of Rs. 1,25,00,000/awarded by the High Court."

30.Recently this Court in the case of **G. Sendhattikalaipandian v. Inspector of Police and Anr** reported in (2020) 8 Mad LJ 319 taking into consideration the piquant situation of a father, whose son lost his life because of electrocution due to the fault of the TANGEDCO, held that the State is liable for its negligence and ordered compensation and also directed that compassionate appointment should be provided to the brother of the deceased.

31.Therefore, the issue with regard to the power of the High Court to award monetary compensation and issue a direction for compassionate appointment, suitably, in a deserving cases, by invoking Article 226 of the Constitution of India, has already been settled by the Hon'ble Apex Court as well as by this Court.

32.Several temples maintained by the State are keeping elephants within their premises as part of tradition and religious practices. This practice of having elephants in temples is seen from historic times. Recently in a popular temple in the State, the deep bonding between the Elephant and Mahout was shown in several TV Channels. It was remarked that an elephant is huge animal with a child's mindset and despite its intelligence, needs proper care and caution. This being so, the State should be very cautious when the devotees are visiting the temple with the elephant being there.

33. Now, that it has become clear that the liability has to be



fastened on the State for its negligence.

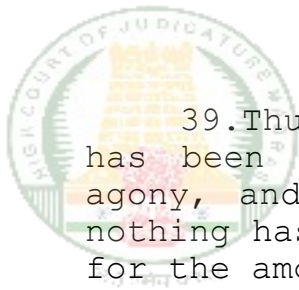
34.The Hon'ble Supreme Court rendered a decision in the case of **Naval Kumar** as cited supra and awarded a sum of Rs.90 lakhs as compensation for the permanent disability suffered by 8 year old child. In the present case, the girl has been suffering from the age of 3 year and the extent of suffering would be much more than that of the case of child at the age of 8 year in that case. In this case, the disability of the petitioner would continue permanently till her natural life.

35.This is a fit case where this Court will be justified in awarding monetary compensation for more than a crore of rupees along with compassionate appointment. However, the relief sought in this Writ Petition is only to provide compassionate appointment to the petitioner. If at all, this Court intends to render complete and comprehensive justice to the petitioner, it can be done only by providing monetary compensation as well as compassionate appointment. Any decision by this Court for providing compassionate appointment alone to the petitioner, will amount to rendering piecemeal justice. Certainly, such way of rendering justice, would not provide complete justice. Therefore, to avoid rendering justice in a piecemeal manner, in deserving cases, this Court can invoke Article 226 of the Constitution of India, to mould the relief to do complete and comprehensive justice.

36.No doubt, the petitioner has been undergoing a lot of mental agony, pain, emotional sufferings, permanent disability at the time of treatment, not able to move freely among her friends, to enjoy other luxuries, losing her marital opportunities, lost her valuable time, etc.

37.With the above difficulties, the petitioner herself and through her father made several representations to the respondents, to provide suitable compensation, but nothing has been yielded so far.

38.The petitioner had completed her B.E., graduation in Computer Science and as per her additional affidavit filed before this Court dated 29.11.2020, she has specifically stated that she has a problem only in vocal and otherwise she does not have any problem in executing work at the office. She is competent to execute any computer related work at the office of the Hindu Religious and Charitable Endowments Department or any Temples that comes under the Hindu Religious and Charitable Endowments Department. The petitioner has also stated that she could perform any work like Accountant, Senior Assistant, Junior Assistant, Cashier, Typist and etc, in addition the Computer related work as stated earlier.



39.Thus, what is important to see here is while the petitioner has been suffering from all pains, emotional sufferings, mental agony, and spent for her medical expenses for the past 20 years, nothing has been received from the respondents, as compensation even for the amount spent for her medical expenses.

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40.Now, the petitioner has also been facing the issue of marital prospect, as there is no cure for the defects suffered by the petitioner and the marital prospect of the petitioner is almost remote. As the petitioner's father is working in a Transport Corporation, with his meager income, certainly he could not meet the petitioner's medical expenses and to take care of his family. With the scattered marital prospects, the petitioner has to manage on her own. In such case, she needs financial support from her father and the same is not possible forever.

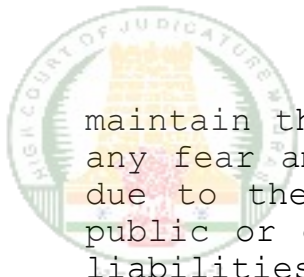
41.As opined by the doctor it is not a curable injury even with surgery. If surgery was performed, she could lost her life. It is also unpredictable as to what would be the problem that she is going to face in the future. Thus it is very difficult to ascertain the compensation in monetary terms for the future except awarding the same for the past and present sufferings. Certainly, she may have to face a different problem when she is getting old due to the present injury.

42.The petitioner had also filed her latest photographs. At first glance, the photograph of the petitioner would show that she has been breathing through the artificial tracheal tube which is inserted in her throat by way of medical surgery.

43.To find out the difficulties that the petitioner has been facing in her day to day life, this Court called upon the petitioner to appear before this Court on 04.12.2020. Accordingly, she appeared through video conferencing. I have interacted with the petitioner, and found that she has difficulties to speak, breathe, and to have solid food.

44.This Court in the case of **G. Sendhattikalaipandian v. Inspector of Police and Anr**, (supra) has directed to provide compassionate appointment to the petitioner therein, taking into consideration the financial situation of the family and due to the death of the brother of the petitioner in the family. In the present case, the petitioner's family has been facing severe financial crisis. The petitioner's father spent lots of money from his savings and he requires more money to meet her future medical expenses as the present defects would continue forever.

45.The State (fourth respondent temple) is the owner and maintaining the endangering wild animal in a place where a large number of public will assemble and therefore the State has to



maintain the animal in such a way that it would not cause or create any fear among the public and in any case, if any injury sustained due to the indifferent behaviour or fear of the elephant, to any public or devotees, the State cannot absolve or wriggle out of its liabilities merely by stating that there was no elephant attack.

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46. In the present case, this Court has traced out that the reason for the petitioner's injury was due to the elephant attack. Even assuming if the incident was occurred as stated by the respondents, the State is still responsible and liable to compensate the petitioner under public law remedy. Thus, this Court is of the opinion that it would be appropriate to award compensation to the petitioner both by way of monetary as well as compassionate appointment, in the manner stated below:-

Monetary Compensation:-

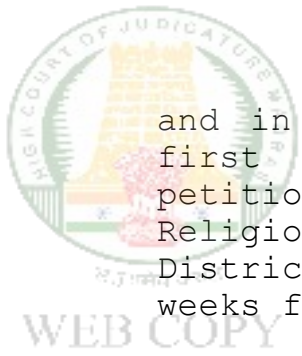
(i) As far as monetary compensation is concerned, this Court has taken into account the medical expenses of the petitioner, mental agony, pain, sufferings of the petitioner for the past 20 years. The petitioner has given representation dated 18.12.2019, wherein, she has requested the respondents to provide a compensation for a sum of Rs.50 lakhs with medical expenses of Rs.3,93,457/-, and for the compassionate appointment. At the time of argument, the learned counsel for the petitioner submitted that the petitioner has spent more than a sum of Rs.12 lakhs towards medical expenses, but she has medical bills only for a sum of Rs.3,93,457/-.

(ii) Though, this Court felt that it would be appropriate to award monetary compensation of more than Rs.1 Crore, since it is decided to compensate the petitioner both by way of providing monetary compensation as well as compassionate appointment, taking into consideration of the nature of the injuries suffered and unexpected future problems which the petitioner may confront, this Court is inclined to award a sum of Rs.25 Lakhs as monetary compensation.

Compassionate Appointment :-

(i) Taking into consideration of the loss of marital prospects, sufferings that she has been undergoing from day-to-day life, the poor financial status of her father, and unpredictability of the problem that she is going to face in the future with the existing disabilities, this Court is of the view that it would be appropriate to employ her on compassionate ground in the Hindu Religious and Charitable Endowments Department, as the same would help the petitioner to improve her financial status, marital prospects, living style, mental strength and reduce her mental agony and other sufferings to some extent.

(ii) As the petitioner has already made a request in the representation dated 18.12.2019, based on the said request



and in view of the above findings, this Court directs the first respondent to issue an appointment order to the petitioner in a suitable post in the department of Hindu Religious and Charitable Endowments Department, at Trichy District, on compassionate ground, within a period of four weeks from the date of receipt of a copy of this order.

47. In result, this Writ Petition is allowed by issuing the following directions:-

a) Respondents No.1, 3 and 4 are directed to pay a sum of Rs.25 Lakhs as compensation to the Petitioner, within a period of four (4) weeks from the date of receipt of the copy of this order.

b) Respondents 1,3 and 4 shall pass appropriate orders for granting compassionate appointment to the petitioner in an appropriate post suitably, in the 1st Respondent's Department at Trichy District, within a period of eight (8) weeks from the date of receipt of the copy of this order. No Costs.

48. Let a copy of this order be marked to the concerned Ministry of the State for Hindu Religious and Charitable Endowments Department, for appropriate action.

49. After pronouncement of the order in this Writ Petition, the learned counsel for the petitioner brought to the notice of this Court that he has filed a separate Writ Petition, seeking for compensation and the same is pending before this Court. Since this Court has already passed orders in this matter, the Counsel for the petitioner shall appropriately advise the Petitioner to take necessary steps for ensuring the needful is done to ensure the same is not shown as pendency before this Court.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

- 1.The Principal Secretary,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road, Chennai 600 034.
- 2.The Principal Chief Conservator of Forests (Head of Forest Force)
Panagal Maaligai,
No.1, Jones Road, Saidapet,
Chennai 600 015.
- 3.The Commissioner,
Hindu Religious and Charitable Endowments,
119, Uthamar Gandhi Road,
Chennai 600 034.
- 4.The Joint Commissioner / Executive Officer,
Arulmigu Maariamman Temple,
Samayapuram,
Samayapuram, Trichy District.
- 5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy, Trichy - 620 002.
- 6.The District Forest Officer, Trichy Division,
Court Campus, Cantonment Compound,
Trichy - 620 001.
- 7.The District Collector,
District Collector, Trichy District.
- 8.The Inspector of Police,
Samayapuram Police Station,
Samayapuram, Trichy District.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-930[F] dated 18/01/2021)

W.P (MD) .No.16258 of 2020
11.01.2021

MJ(CO)
KB(09.02.2021) 15P 10C