



C.M.A. No. 897 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.897 of 2022

Lisa @ Monisha

... Appellant / Petitioner

Vs.

1. Veeramani

2. The New India Assurance Co. Ltd.,
Rep. by its Divisional Office,
Sethukrishna Trade Centre,
No.133/31A, II Floor,
Trichy main Raod,
Gugai, Salem - 6.

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 08.09.2020 passed in M.C.O.P. No.755 of 2017 on the file of the Learned Motor Accident Claims Tribunal cum Special District Judge, Dharmapuri.

For Appellant	:	Mr. M. Selvam
For R1	:	No Appearance
For R2	:	Mr. K. Vinod



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JUDGMENT

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This appeal has been filed by the claimant challenging the quantum of compensation awarded by the Tribunal in M.C.O.P. No. 755 of 2017, dated 08.09.2020 on the file of the Learned Motor Accident Claims Tribunal cum Special District Judge, Dharmapuri.

2. For the sake of convenience, the parties are referred herein according to their litigative status and rank before the Tribunal. The brief facts leading to filing of this appeal is as follows:

3. The case of the claimant/ appellant is that, on 23.03.2017, while she was traveling as a pillion rider in a two wheeler, driven by her father-in-law from the Primary Health Centre, Eriyur towards her home after completing her periodical pregnancy medical checkup, when they reached near Venkateswara Agencies, Eriyur, the first respondent's auto bearing Registration No.TN-29-BE-5112 came behind the said two wheeler in a rash and negligent manner and dashed against the two wheeler. Due to which, the claimant sustained injuries and it also leads to miscarriage of her six weeks fetus, therefore, the claimant has come forward to claim compensation for a sum of Rs.5,00,000/- by



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invoking Section 166 of the Motor Vehicles Act, 1988.

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4. The first respondent has not contested the claim and remained ex-parte and the second respondent - insurance company resisted the claim by disputing the manner in which the accident has taken place, age, income, injury sustained by the claimant. After recording the evidence on both sides, the Tribunal has accepted the case of the claimant that she has miscarriage of her six weeks fetus, due to the accident, thereby awarded Rs.1,50,000/- as compensation along with interest @ 7.5% per annum from the date of petition till the date of realization and directed the second respondent - insurance company to pay the compensation.

5. Aggrieved over the quantum of compensation, the claimant has come forward with this appeal.

6. The learned counsel appearing for the appellant/ claimant submits that, in a similar circumstances of the case, this Court had awarded Rs.2,50,000/- for loss of fetus in the motor vehicle accident, whereas the Tribunal has not considered the same and awarded only Rs.1,50,000/- as compensation.



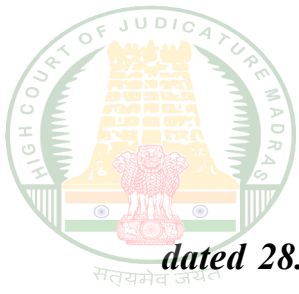
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7. Per contra, the learned counsel appearing for the second respondent - insurance company submits that the Tribunal with cogent reasons had awarded compensation for a sum of Rs.1,50,000/- and not accepted the claim made by the reliance of the previous judgments made by this Court for a sum of Rs.2,50,000/-, thereby prays to confirm the award of the Tribunal and dismiss the appeal.

8. I have considered the submissions made on both sides and perused the materials available on record.

9. On perusal of the award of the Tribunal, the Tribunal has considered the judgment of this Court in ***Oriental Insurance Company Ltd vs. Murugesan and others [2019(1) TNMAC 770]***, wherein this Court has awarded Rs.2,50,000/- for the loss of four months fetus. The Hon'ble Apex Court in ***National Insurance Company Limited vs. Kusuma and another (Civil Appeal No.7212/2011, arising out of SLP (Civil) 17905/2008, dated 23.08.2011)*** has awarded Rs.1,80,000/- as compensation, for the loss of fetus in mother's womb. This Court in ***S.Arokiya James Anthony vs. Metropolitan Transport Corporation, Chennai (CMS.No.1858, 1859 and 1850 of 2011,***



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dated 28.02.2018, while dealing with the claim of compensation for the death of a fetus in the mother's womb has awarded Rs.2,00,000/-. All these judgments were properly considered by the Tribunal and also considering the evidence of P.W.2 - Dr. Veeramani, who has confirmed that the claimant was conceived with a fetus of 6 weeks at the time of accident, the Tribunal has awarded the compensation.

10. In view of the above, since the Tribunal has properly considered the judgments cited supra and had given a cogent reasons for awarding a compensation for a sum of Rs.1,50,000/-. This Court finds that the compensation awarded by the Tribunal is proper and there is no reason to interfere in the award and to enhance the quantum of compensation awarded by the Tribunal. Accordingly, this Court inclined to confirm the award of the Tribunal.

11. In the result, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition, if any stands closed. There shall be no order as to cost.

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K. RAJASEKAR, J.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No

To:

1. The Special District Judge (MACT),
Motor Accident Claims Tribunal,
Dharmapuri.
2. The Section Officer,
V.R.Section,
High Court, Chennai.

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