



C.M.A(MD)No.1289 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1289 of 2023

V. Lavanya

... Appellant

Vs.

1. P.R.Vishnu Venkatachalapathy

2. The Divisional Manager,
New India Assurance Company Limited,
Divisional Office 2nd Floor,
Jerome Building Fort Station Road,
Trichirappalli – 620 002.
Policy No.71070131140150001660

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award, dated 27.07.2018, made in M.C.O.P.No. 823 of 2015, on the file of the Motor Accident Claims Tribunal / Special Sub-ordinate Court, Trichirappalli.

For Appellant	: Mr.N.Sudhagar Nagaraj
For R1	: No Appearance
For R2	: Mr.M.C.Deepak



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JUDGMENT

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The claimant has preferred this Civil Miscellaneous Appeal.

2.It is a case of injury. The contention of the appellant is that at the time of accident the appellant was pregnant. The appellant submitted that while the Doctor was examined the appellant, he had confirmed that the appellant is pregnant. Due to the accident, she underwent abortion but the Tribunal has not awarded any compensation for the same.

3.The learned Counsel appearing for the appellant relied on the judgment rendered by this Court in the case of ***Oriental Insurance Company Limited Vs. Karuppasamy and others*** reported in ***2020 ACJ 833*** wherein for loss of womb, the Court has granted Rs.2,50,000/- as compensation. However, this Court is fixing the compensation for loss of womb as Rs.1,00,000/-, since the appellant is only 23 years old and there is a possibility of another pregnancy.

4.The next contention raised by the appellant is that for loss of amenities the Tribunal has not granted any compensation but this was vehemently opposed by the learned Counsel appearing for the Insurance Company stating that the



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Tribunal has already granted compensation under the head of pain and suffering to the tune of Rs.1,50,000/-, therefore, compensation cannot be granted under the head of loss of amenities.

5.After hearing the submissions of both sides, this Court is increasing the compensation granted under the head of pain and suffering from Rs.1,50,000/- to Rs.2,10,000/-. As far as loss of income is concerned, the learned Counsel appearing for the appellant submitted that the appellant is working as Warden in Special Prison for Women. But the appellant has not produced any evident to this effect. Hence, the Insurance Company vehemently opposed the same and relied on the finding of the Tribunal wherein it has been stated that even though the claimant is claiming to be a Warden of the Special Prison for Women and was earning Rs.17,000/- per month, there is no iota of evidence to this effect.

6.On perusing the FIR, it is seen that the she was working as a Warden. Even though there is no evidence, this Court is inclined to grant some compensation under the head of loss of income, since the FIR states that she was working as a Warden. This Court is granting Rs.50,000/- under the head of loss of income. The disability is fixed as 38% by the Board. This Court is granting Rs.



4,000/- per percentage of disability which amounts to Rs.1,52,000/- (Rs.4,000/- * 38). Hence, the compensation granted under the head of disability is enhanced from Rs.1,14,000/- to Rs.1,52,000/- by this Court.

7. Therefore, the compensation granted by the Tribunal is modified as stated supra and the compensation granted under the other heads are confirmed. The modified compensation granted by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Disability	Rs.1,14,000/- (Rs.3,000/- * 38)	Rs.1,52,000/- (Rs.4,000/- * 38)	Enhanced
2.	Pain and Suffering	Rs.1,50,000/-	Rs.2,10,000/-	Enhanced
3.	Extra Nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Damages	Rs.2,000/-	Rs.2,000/-	Confirmed
5.	Transport Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Medical Expenses	Rs.1,01,836/-	Rs.1,01,836/-	Confirmed
7.	Loss of Womb	Nil	Rs.1,00,000/-	Enhanced
8.	Loss of Income	Nil	Rs.50,000/-	Enhanced
	Total	Rs.3,97,836/-	Rs.6,45,836/-	Enhanced

Thus, the total compensation granted by the Tribunal to the tune of Rs.3,97,836/- is enhanced to Rs.6,45,836/- by this Court.



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8.The 2nd respondent Insurance Company is directed to deposit Rs. 6,45,836/- (Rupees Six Lakh Forty Five Thousand Eight Hundred and Thirty Six only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by her, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimant is liable to pay the balance Court fee, if any.

9. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

19.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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- 1.Motor Accident Claims Tribunal /
Special Sub-ordinate Court, Trichirappalli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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