

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 04.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR  
AND  
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.A. NO. 290 OF 2012

AND

M.P. NO. 1 OF 2012

1. The State of Tamil Nadu  
rep. by its Secretary  
SC/ST & BC Welfare Department  
Secretariat, Chennai 600 009.
2. The Commissioner  
SC/ST & Backward Community  
Chepauk, Chennai 600 005.
3. The District Collector  
Kanchipuram District  
Kanchipuram.
4. The District Welfare Officer  
(SC/ST & Backward Community)  
Kanchipuram District, Kanchipuram.
5. The Special Tahsildar  
SC/ST Welfare  
Kanchipuram Taluk Office  
Kanchipuram.
6. The Warden  
Adi-Dravida Welfare Hostel (ITI)  
Kayarkulam  
Kanchipuram Taluk & District. ... Appellants/Respondents

- Vs -

K.Saminathan

... Respondent/Petitioner

Writ Appeal filed against the order dated 24.11.2011 passed by the learned Single Judge in W.P. No.23003 of 2011.

W.P. No.23003 of 2011 : Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the Respondents to pay jointly and severally for a sum

of Rs.15 00 000/- as compensation for the death of my only son S.Logeswaran murdered on 01.10.2010 due to sheer negligence on the part of the Respondents particularly the Respondents 3 to 6 during his stay in the Hostel under the 6th Respondent as made the Petitioners representation dated 14.09.2011 and consequentially direct the 1 to 3 Respondent to take action against the Respondents 4 to 6 for their negligent act.

For Appellants : Mr. R.Ravichandran,  
Additional Government Pleader

For Respondent : Mr. R.Thanjan

JUDGMENT  
(DELIVERED BY R.SUDHAKAR, J.)

The State is on appeal against the order of the learned single Judge directing grant of compensation for the death of a student, viz., the son of the respondent herein, in a hostel, which was neither managed properly by the warden nor did it have proper security measures that are basically required to take care of the students in the said hostel.

2. It is the case of the respondent that his son, who was doing first year ITI at Kamatchi Industrial Training Institute, Sekkuppetai, was staying at the Adi Dravidar Welfare Hostel at Kayarkulam. On 1.10.2010, the respondent's son was found murdered and after investigation, a case has been registered against one other student, who was also staying in the said hostel. It is the case of the respondent that due to the callous attitude on the part of the appellants, the security in the hostel came to be compromised resulting in the death of his only son and, therefore, he claimed compensation in a sum of Rs.15,00,000/=.

3. The writ petition came to be allowed by the learned single Judge by passing a detailed order, wherein in para-18 of the said order, learned single Judge has recorded the reasons as to why the appellants herein are to be mulcted with the responsibility and the necessity for awarding compensation:-

"18. Here in this case, the respondents have not appointed any Watchman and the Warden being a local parent of the inmates of the hostel, if anything happens to the inmates within the hostel premises, the Warden/officials alone can be held responsible for the negligence in protecting the life of the petitioner's son. Hence, the vicarious liability on the part of the respondents in paying the compensation to the petitioner cannot be disputed, particularly when

the place of death, the date of death and the manner in which it has occurred are not in dispute. Hence, I am of the view that the petitioner is entitled to get compensation from the respondents."

4. The learned single Judge came to the conclusion that the appellants herein are liable to pay compensation by relying upon a decision of the Division Bench of this Court in *The Chief Secretary to the Government of Tamil Nadu, Madras & Ors. - Vs - Mrs. R.Selvam* (2004 (3) MLJ 295), wherein, in similar circumstances, a girl student studying in the Government Medical College was murdered in the hostel premises, liability was fixed on the State and the State was directed to pay compensation.

5. Insofar as the quantum of compensation is concerned, learned single Judge, placing reliance upon various decisions of the Court, where compensation was given, including the one referred to above, came to the conclusion that compensation in a sum of Rs.10,00,000/= (Rupees Ten Lakhs only) with interest at the rate of 9% p.a. would be just and reasonable. For better clarity, the relevant portion of the order is extracted hereinbelow :-

"19. ....

(c) For the death of a 11th standard student due to the negligence of the school authority, a total sum of Rs.6 Lakhs was ordered by me in the decision reported in 2008 (8) MLJ 1085 (*P.N.Kanagaraj - Vs - Chief Secretary, State of Tamil Nadu, Chennai & Ors.*). The said order was confirmed by the Division Bench of this Court in W.A. No.248 of 2009 dated 9.7.2009. In the said judgment, I have followed the earlier decisions reported in 2007 (2) MLJ 685 (F.B.) (*P.P.M. Thangaiah Nadar Firm - Vs - Government of Tamil Nadu*); 2006 (3) MLJ 764 (*Lakshmana Naidu - Vs - State of Tamil Nadu*); 2001 WLR 174 (*C.Chinnathambi - Vs - State of Tamil Nadu*); 2006 WLR 13 (*C.Thekkamalai - Vs - State of Tamil Nadu*), etc.

(d) In the decision reported in 2011 WLR 943 (*P.Ravichandran - Vs - The Government of Tamil Nadu & Ors.*) for sustaining 100% disability due to the negligence of the Municipal Corporation, compensation of Rs.16 Lakhs and a further sum of Rs.2 Lakhs was ordered for medical expenses, pain and suffering, etc., to a Transport Corporation Conductor. Thus the respondents cannot deny compensation to the petitioner for the loss of his only son."

6. Accordingly, learned single Judge awarded a compensation of Rs.10,00,000/= (Rupees Ten Lakhs) along with interest at the rate of 9% p.a. from January, 2012 till the date of actual payment.

7. Aggrieved by the said order of the learned single Judge, the appellants are before this Court by filing the present appeal.

8. Learned Addl. Government Pleader appearing for the appellants submitted that vicarious liability cannot be fastened on the appellants and the appellants cannot be held responsible for the death of the respondent's son and, therefore, the compensation awarded to the respondent is not sustainable. Learned Addl. Government Pleader further submitted that this Court, even if it confirms the order of compensation, the interest awarded on the said amount is not sustainable.

9. Heard the learned Addl. Government Pleader appearing for the appellants and the learned counsel appearing for the respondent and perused the materials available on record.

10. It is not in dispute that the hostel, where the incident took place, is meant for SC/ST students. On the question of vicarious liability, learned single Judge, in the above judgment has clearly held that no watchman was appointed by the appellants to look after the security of the students staying at the hostel. Further, it has also been found that the Warden, a local, was the parent of one of the inmates of the hostel and in such circumstances, the learned single Judge held that in case of anything happening within the hostel premises, the warden/officials alone can be held responsible. The said finding of the Court cannot be said to be unjustified.

11. The hostel is primarily intended for SC/ST students, who come from a very oppressed strata of society. It is the paramount duty of any welfare State, to provide security to the oppressed class. Therefore, it is the duty of the Government to provide all the necessary facilities, infrastructure as well as security for the students staying in the hostel. In the absence of providing any security, much less, adequate security, the appellants cannot shirk away from their responsibility by merely stating that vicarious liability cannot be fixed on them. As rightly held by the learned single Judge, the appellants are vicariously liable to pay compensation to the respondent herein, more so when the occurrence had taken place within the hostel premises.

12. Insofar as the contention of the learned Addl. Government Pleader that the interest awarded at the rate of 9%



p.a. from June, 2012 till the date of payment cannot be sustained, it has been time and again held that the award of interest, in the facts and circumstances of the case, should be judiciously exercised and the interest so awarded should be commensurate with the cost of living of the present day. In the case on hand, the occurrence having taken place in the year 2010, the award of interest at 9% p.a. cannot be said to be high or exorbitant.

13. Taking note of the cost of living index in the present day scenario as also the various orders passed by the Courts from time to time in a case of death of a student within the hostel premises, the award of compensation at Rs.10,00,000/= with interest at the rate of 9% p.a. cannot be held to be arbitrary, unreasonable or shocking the judicial conscience.

14. Accordingly, finding no infirmity in the order passed by the learned single Judge this writ appeal is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

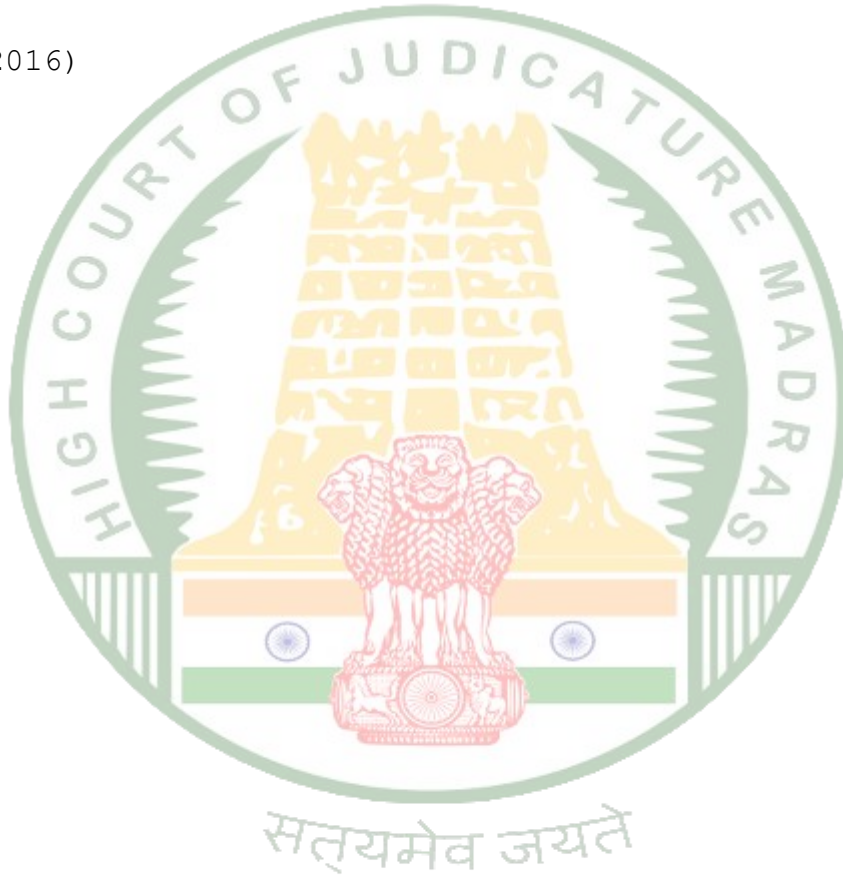
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+1cc to Mr.R.Thanjan, Advocate, S.R.No.7678  
+1cc to the Government Pleader, S.R.No.7502

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SNS (CO)  
CA (23/02/2016)



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