



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN  
and  
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A(MD) No. 972 of 2017  
and  
C.M.P. (MD) No. 6578 of 2017

1. The Principal Secretary to Government,  
Industries Department,  
Secretariat, Chennai.

2. The Secretary to Government,  
Revenue Department,  
Fort St. George,  
Chennai - 600 009.

3. The District Collector,  
Madurai District,  
Madurai.

... Appellants

Vs.

1. S. Sekar  
2. D. Radhakrishnan

... Respondents

**PRAYER:** This Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed in WP(MD) No. 1223 of 2013 dated 03.03.2017 by allowing the writ appeal.

**Prayer in WP(MD). 1223/ 2013 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents, to reimburse the medical expenses of Rs.4.00 Lakhs incurred to the deceased petitioner's wife Avannammal at the Hospital and to provide just and adequate compensation of not less than Rs.15 Lakhs to the petitioner for the loss of his wife due to the negligent act of the respondents and to initiate appropriate disciplinary proceedings against the 3rd respondent for failing in his duty within the stipulated period as fixed by this Court.

For Appellants

: Mr. M. Govindan,  
Spl. Govt. Pleader

<https://hcservices.ecourt.gov.in/hcservices/>

For Respondents

: Mr. S. Govindan for R1  
Mr. D. Gandhiraj for R2

**J U D G M E N T**

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**[Judgment of the Court was made by G.R.SWAMINATHAN, J.]**

This writ appeal has been filed by the State Government challenging the order dated 03.03.2017 made in WP(MD)No.1223 of 2013 filed by the first respondent herein.

2.The wife of the first respondent was engaged in cutting grass on 24.02.2012 at about 04.30 p.m. When on account of the quarrying operations carried on by the second respondent herein in the adjacent land, a heavy stone blasted from the quarrying spot fell on the head of the first respondent's wife. In spite of giving treatment, she succumbed to her injuries on 23.03.2012. Crime No.100/2012 was registered on the file of the Vadipatti Police Station. In the F.I.R, the cause of accident is clearly mentioned.

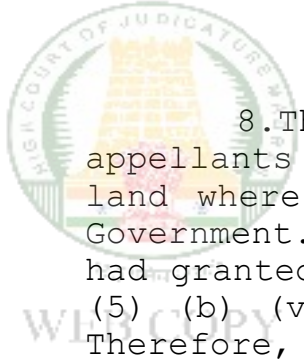
3.The case of the first respondent herein is that the said accident happened due to the negligence of the second respondent herein. Inasmuch as the lease was given by the Government, the Government is also vicariously liable to him. Since the first respondent's claim for compensation was not complied with, he filed WP(MD)No.1223 of 2013. The said writ petition was allowed on 03.03.2017 with a direction to pay a sum of Rs.5.00 Lakhs. The liability to pay the said sum was fastened jointly on the Government as well as the quarry operator. Aggrieved by the said direction, the Government has filed this intra Court appeal.

4.It is submitted by the learned counsel for the second respondent herein that a Review petition has been filed before the learned single Judge and that it is still pending.

5.Heard the learned counsel for the parties.

6.We went through the materials on record. The occurrence had taken place on 24.02.2012. The police complaint was lodged on 25.02.2012 itself. The F.I.R was registered on 28.02.2012. The hospital authorities also duly intimated the police. The allegation is that explosives were used for causing of blasting at the quarry site. Since safety measures were not adopted and sufficient precaution was not followed, a heavy stone blasted from the quarry site had fallen on the land of the first respondent. Unfortunately, the wife of the first respondent was then engaged in cutting of grass. The stone fell on her causing head injuries and ultimately leading to her death.

7.The learned Judge had recorded a specific finding that the first respondent's wife died only due to the blasting operations at the nearby quarry site operated by the second respondent herein. This finding cannot be said to be based on no material.



8. The learned Additional Government Pleader appearing for the appellants is not able to persuade us to take a different view. The land where the quarrying operations were conducted belongs to the Government. The District Collector by proceedings dated 05.11.2009 had granted lease for a period of five years 2009-2014 under Rule 8 (5) (b) (vii) of Tamil Nadu Minor Mineral concession Rules, 1959. Therefore, constructive liability of the appellants cannot be denied. The learned Judge rightly invoked the doctrine of strict liability to award compensation to the first respondent herein.

9. We therefore sustain the direction to pay a sum of Rs.5.00 lakhs as compensation to the first respondent herein. It is of course open to the appellants to later recover the said amount from the second respondent herein.

10. With these observations and liberty, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(P & A )

/True Copy/

Sub Assistant Registrar

TO

1. The Principal Secretary to Government,  
Industries Department,  
Secretariat, Chennai.

2. The Secretary to Government,  
Revenue Department,  
Fort St. George,  
Chennai - 600 009.

3. The District Collector,  
Madurai District,  
Madurai.

+1cc to Mr.D.GANDHIRAJ Advocate in SR. No. 75415

+1cc to Mr.S.GOVINDAN Advocate in SR. No. 75249

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 76059

SKM/ARUL

JS/KK/SAR.4/6.10.2017/3P-7C

**W.A(MD) No.972 of 2017**

**and**

**C.M.P. (MD) No.6578 of 2017**

**29.08.2017**