

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.2389 of 2013

A.Selvi

... Appellant

Vs

1. Government of Tamil Nadu
rep. by its Home Secretary,
Fort St. George, Chennai-9.

2. Superintendent of Police,
Cuddalore District,
Cuddalore.

3. The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 02.04.2013 made in W.P.No.30298/2005 by a learned Single Judge.

Prayer in WP.No. 30298 of 2005:-Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pass the Petitioner, Jointly or severally a compensation of any amount.

For Appellant :: Ms.Gobika
for M/s.S.Sathia Chandran

For Respondents :: Mr.P.S.Siva Shanmuga Sundaram,
Spl. Govt. Pleader

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 02.04.2013 made in W.P.No.30298/2005 by a learned Single Judge.

2. The said Writ Petition has been filed seeking to issue

a Writ of Mandamus, directing the respondents to pay the petitioner a compensation either jointly or severally for the death of her husband Annadurai while in custody. The same was disposed by the learned Single Judge by order dated 02.04.2013 stating that the writ petitioner is entitled to receive a compensation of Rs.5,90,000/-. Aggrieved over the same, the writ petitioner has filed the present Writ Appeal on the ground that no interest has been awarded.

3. Heard the learned Counsel for the appellant and the learned Special Government Pleader appearing for the respondents. We have also perused the materials available on record carefully including the order of the learned Single Judge.

4. At the outset, the facts that the appellant's husband Annadurai was detained under police custody on 07.11.2004 and while he was in police custody, on 08.11.2004, he died are not in dispute. According to the appellant, due to the harassment and assault made on her husband by the police, he died. Since it is a case of custodial death, proceedings were initiated before the State Human Rights Commission. The Commission, on its order dated 2.4.2007, after going through the report submitted by the Revenue Divisional Officer awarded a compensation of Rs.1,50,000/-. Since the appellant has got two sons and a minor daughter, unsatisfied with the said award filed a Writ Petition before this Court. The learned Single Judge, finding that the said amount is very meagre, enhanced the compensation at Rs.5,90,000/- instead of Rs.1,50,000/- as awarded by the Commission. Accordingly, directed the 1st respondent to deposit the entire balance amount of Rs.4,40,000/- within a period of two months from the date of receipt of a copy of that order. But since no interest has been awarded, the appellant has preferred the present Writ Appeal.

5. At this stage, the learned Special Government Pleader appearing for the respondents submitted that the enhanced compensation amount has also been sanctioned and deposited as per G.O. (Ms.) No.990, Public (Law and Order.E) Department dated 19.9.2013. Since the death of the appellant's husband was only due to the metabolic changes of his body as per the Medical Experts Report, the appellant is not entitled for any interest.

6. In this regard, a perusal of the counter affidavit filed by the 2nd respondent, namely, the Superintendent of Police, Cuddalore District, reveals that as per the Revenue Divisional Officer's report, the death of the appellant's husband was not due to the police assault as there was no bony injuries present on his body, but was due to metabolic changes of his body, according to the opinion of the Medical Experts. However, it appears that the compensation was calculated by

adopting the multiplier method likewise in the case of Motor Accident under the Motor Vehicles Act under various heads by the learned Single Judge to the tune of Rs.5,90,000/-. Now the appellant sought for awarding of interest on the said amount.

7. It might be true that during custody, the husband of the appellant would have died. But, it appears that his death is not exactly due to the harassment or assault meted out to him by the police. As per the medical and pathology Experts Report, it was due to the metabolic changes of his body. Under such circumstances, we are of the opinion that seeking for interest on the said amount appears to be unjustifiable. Anyhow, considering the plight of the appellant, this Court is of the view that instead of deducting Rs.1,50,000/-, which was already received by the appellant, from the enhanced compensation award of Rs.5,90,000/-, the said amount is ordered to be treated as interest and thus, the balance amount in the entire compensation of Rs.5,90,000/- can be released in favour of the appellant.

8. With the above modification of the order of the learned Single Judge, the Writ Appeal is allowed in part. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Home Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

2. Superintendent of Police,
Cuddalore District,
Cuddalore.

3. The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No. 61007
+1cc to the Government Pleader, S.R.No. 60892

W.A.No.2389/2013

CP(CO)
GN(01/10/2018)