



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 12693 of 2006  
and  
W.P.M.P. 14298 of 2006

D. Kadirvel ... Petitioner

Versus

1. The Government of Tamil Nadu,  
by its Secretary to Government,  
Public Wealth Department,  
Fort St. George,  
Chennai-9.

2. The District Collector,  
Vellore District.

3. The Tahsildar,  
Vaiyambadi Taluk,  
Vellore District.

4. The Executive Engineer,  
Public Works Department,  
Vellore District,  
Vellore.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to pay compensation of Rs.5 lakhs to the petitioner due to the tragic death of his daughter K.Priya on 25.03.2006 in Palar River, Minor Pasanapalli, Melashanang Kuppam, Vellore District.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.I.Sathish,  
Addl. Govt. Pleader





negligence of the victim, she had fell down in a pit.

6. I have heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the records carefully.

7. It is an admitted fact that the victim minor girl died by falling down in a quarry pit, and the quarrying operation was conducted by the Public Works Department. The learned counsel for petitioner has stated that there was indiscriminate quarrying operations by the respondents in Palaru River bed, and left the quarried pit unattended, and there is no proper fencing in the site. The 4<sup>th</sup> respondent has admitted the fact that they have only conducted the quarrying operation, but after conducting quarrying operation, they have not fenced that area, and put up proper sign board, and there is no denial on the part of the respondents that after the quarrying operation, the pits have been closed properly. That apart, from the perusal of records, it could be seen that, immediately after the occurrence, the 3<sup>rd</sup> respondent Tahsildar visited the site, conducted an enquiry, and filed a report before the District Collector stating that the occurrence took place due to the negligence of the respondents. Even though the 4<sup>th</sup> respondent has stated in the counter affidavit that, the above statement was forcibly obtained by the 3<sup>rd</sup> respondent Tahsildar, the 3<sup>rd</sup> respondent did not file any affidavit disputing the report submitted by him. When the respondents are conducting quarrying operation, it is their duty to provide protective measures by fencing the area, and putting up sign board warning the public from entering into the area, and also close the pits after the quarrying operations are over. The victim was a minor, aged about 9 years, ventured into the area along with her friends to play, and she fell into the open trench and drowned. If the respondents are vigilant and provided all protective measures, the accident ought not to have occurred. Therefore, it is only due to the negligence of the respondents, the young child has lost her life, and the respondents are liable to pay compensation for her death.

8. So far as the maintainability of the writ petition seeking compensation is concerned, it is settled law that the public law remedy is available to the petitioner seeking compensation when the right to life is infringed, and the petitioner can maintain a Writ Petition under Art.226 of Constitution of India as per the decision of Hon'ble Supreme Court of India in M.S.Grewal vs. Deep Chand Sood reported in 2001 (8) SCC 151.

9. Regarding the quantum of compensation is concerned, the deceased was 9 years old at the time of death. it is stated that she is a brilliant girl and lost her life at the budding age. Her parents have lost love and affection. Considering the above circumstances, this Court is of the view to award a sum of Rs.3 lakhs to the petitioner will be just and fair compensation.



10. In the result, the Writ Petition stands allowed and the respondents are directed to pay a sum of Rs.3 lakhs as compensation to the petitioner within a period of twelve weeks from the date of receipt of the copy of this order. In default, the respondents are directed to pay interest for the above said amount at the rate of 9% from the date of filing Writ Petition till the payment of compensation. No costs. Consequently, the connected Writ Petition Miscellaneous Petition in W.P.M.P. 14298 of 2006 is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,  
Government of Tamil Nadu,  
Public Wealth Department,  
Fort St. George, Chennai-9.
2. The District Collector,  
Vellore District.
3. The Tahsildar,  
Vaiyambadi Taluk,  
Vellore District.
4. The Executive Engineer,  
Public Works Department,  
Vellore District, Vellore.

+1 cc to Government Pleader Sr.No. 89174

+1cc to Mr.Raghavachari , Advocate SR.No. 88168

W.P. 12693 of 2006

and

W.P.M.P. 14298 of 2006

A.SK(19/12/2019)