

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.06.2019

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20947 of 2008
And
M.P.No.1 of 2008

M.Malathi

... Petitioner

Vs.

1.The Secretary
Department of Municipal Administration
Government of Tamil Nadu,
Fort St.George,
Madras 600 009.

2.The District Collector,
Coimbatore.

3.The Commissioner,
15, Velampalayam Municipality
Presently known as
The Commissioner
Corporation of Tiruppur,
Coimbatore District.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to pay fair and just compensation of Rs.15,00,000/- (Rupees fifteen lakhs only) for the death of the petitioner's husband T.Mohan, son of M.Thangarasu on 02.07.2007, direct the respondents herein to initiate action against the persons at whose dereliction of duty the said accident took place.

For Petitioner : Mr.Kasirajan

For Respondents : Mrs.K.Bhuvaneswari for R1 to R3
Additional Government Pleader

O R D E R

The petitioner is a widow who lost her husband due to improper maintenance of the Municipality. The case of the petitioner is that her husband is a permanent resident of Nadu Theru, Peraiyur Post, Mannargudi Taluk, Tiruvarur District. He went to Tiruppur along with the petitioner and their children in

search of employment and was employed as Production Manager at Amman Garments, No.59-D, Gandhi Road, Eswaran Hall Back Side, Gandhi Nagar Post, Tiruppur, with a monthly salary of Rs.8,050/-.

2.It is the further case of the petitioner that on 02.07.2007 at 2.30a.m., her husband after completing his assignment at the place of his employment came by a two wheeler - Bajaj M-80 bearing Registration No.TN-50-B-3277 to their house and on his way, he fell into an open drainage ditch found at 50 feet Road, Ward No.11, E.B.Colony, Gandhi Nagar, which comes under the control of the third respondent, due to which, he sustained skull fracture and died on the spot. There was no sign board banning the passage to be used.

3.It is the further case of the petitioner that one Karikalan, one of the residents of the locality lodged a complaint with the Inspector of Police, Anupparpalayam Police Station, Tiruppur on 02.07.2007, where the Sub-Inspector of Police registered a case in Crime No.269 of 2007 under Section 304 (A) of IPC. The report of death was widely published in the local media more particularly in 'Maalai Malar' and 'Dhinakaran' on 02.07.2007 and 03.07.2007 respectively. Thereafter, the petitioner sent legal notice to the respondents by way of registered post with acknowledgement due on 05.11.2007 calling upon the respondents to compensate the family members. Since there was no action on the part of the respondents, the petitioner has filed this petition.

4.The learned counsel for the petitioner would submit that the petitioner did not make any representation, however, the legal notice sent to the District Collector was forwarded to the Regional Director, Municipal Administration, Kovai Region, subsequent to which, the Municipality was upgraded as Corporation and the Districts were re-designated. Hence, it would suffice, if this Court issues a direction to the third respondent to pass appropriate orders on the legal notice dated 05.11.2007.

5.The learned Additional Government Pleader concedes the request made by the learned counsel for the petitioner.

6.In view of the limited request made by the learned counsel for the petitioner, this Court without expressing any opinion on the merits of the case, directs the petitioner to send a fresh representation along with a copy of the legal notice dated 05.11.2007, for ready reference, and relevant documents, to the third respondent, to enable the Commissioner to pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the third respondent shall consider the representation and the legal notice dated 05.11.2007 and pass

appropriate orders, in accordance with law and relevant Rules, as expeditiously as possible, preferably, within a period of twelve weeks thereafter.

7.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.S.Kasirajan, Advocate, S.R.No.49163
+1cc to the Government Pleader, S.R.No.49401

W.P.No.20947 of 2008
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KK (CO)

RRS (31/07/2019)

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