



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2019

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.9358 of 2015

N.Umadevi

: Petitioner

Vs.

1.The Secretary to Government,
Department of Highways and Minor Ports,
Secretariat,
St. George Fort, Chennai - 600 009.

2.The Director General,
State Highways Department,
PWD Complex, Kamarajar Salai,
Chennai - 600 005.

3.The Executive Engineer (H) (C & M),
State Highways Department,
Madurai Circle, Azhagar Kovil Road,
Madurai.

4.The Assistant Engineer,
State Highways Department,
Vadipatti, Madurai District..

: Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pay a sum of Rs.35 Lakhs towards compensation to the petitioner for the death of the petitioner's husband N.Neethi who met with an accident due to the withered Coconut tree No.10 belongs to State Highways Department fell down on the petitioner's husband who was travelling on his motor cycle from Melakal Village to Madurai on 05.12.2013 due to the negligence on the part of the respondents who failed to remove the withered Coconut tree on the highways, within a time limit fixed by this Court.

For Petitioner

: Mr.P.T.Narendravasan for
Mr.T.K. Gopalan

For Respondents

: Mr.R.Sethuraman
Special Government Pleader

**O R D E R**

Heard the learned counsel on either side.

2. While the the Writ Petitioner's husband viz., K.Neethi, was riding a two wheeler and going through Melakal - Madurai main road on 05.12.2013, the coconut tree maintained by the respondents, Department fell on him. He died instantaneously. He was crushed to death. The Writ Petitioner seeks payment of compensation for the aforesaid accident.

3. The respondents have filed counter affidavit. The factum of death is not denied. It is further admitted that the coconut tree that fell on the petitioner's husband also belonged to the said Highways Department. It is however claimed in the counter affidavit that the tree fell on the petitioner's husband was alive yielding coconut tree. If that be so it would not have suddenly fallen. It is not the case of the respondents that it had happened due to act of god. On the other hand, the petitioner would specifically contended that the tree was old one and it had already withered. The roads come under the respondent Department and they ought to have removed the same in time. Since they failed to do so, it caused the unfortunate death of the petitioner's husband.

4. I am of the view that the death of the petitioner's husband only due to the negligence on the part of the the respondents Department. They are are obliged to compensate the petitioner. The respondents are clearly liable to compensate the petitioner for the loss of her husband.

5. Now, the question arises with regard to the quantum of compensation. When the petitioner's husband died, he was aged about 45 years. Of course, there is no proof with regard to his income and hence, the notional income can be fixed at Rs.6,000/- per month. Along with 25% towards future prospects, the monthly income would be Rs.6000/- + 25% = Rs.7,500/-. Since the deceased had three dependants, $1/4^{\text{th}}$ has to be deducted towards personal expenses from the said income. The relative multiplier would be 14. The loss of income is quantified as follows:

$$\begin{aligned} &= \text{Rs.7,500/-} (-) 1/4^{\text{th}} \quad \times 14 \times 12 \\ &= \text{Rs.5,625/-} \times 14 \times 12 \\ &= \text{Rs.9,45,000/-} \end{aligned}$$

Therefore, loss of income for the family is quantified at Rs.9,45,000/-. Furthermore, the petitioner is entitled to a sum of Rs. 70,000/- under the conventional heads (funeral expenses, Consortium and loss of estate). The compensation payable to the petitioner is Rs.10,15,000/-.

6. The respondents are directed to pay the said amount of Rs.10,15,000/- together with interest at 7.5% per annum from the date of filing of this Writ Petition, within a period of six weeks



from the date of receipt of a copy of this order. The petitioner, wife is entitled to 50% of the said sum. The balance amount shall be deposited in any one of the Nationalized Banks in the name of the children. The petitioner can withdraw the interest once in three months directly from the Bank.

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7. This Writ Petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

To

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Secretariat,
St. George Fort, Chennai - 600 009.

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4.The Assistant Engineer,
State Highways Department,
Vadipatti, Madurai District..

+1 CC to Mr.PT.S.NARENDRAVASAN, Advocate (SR-53416[F] dated
12/03/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-53952[F] dated 14/03/2019)

W.P.(MD) No.9358 of 2015
12.03.2019

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