



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.2294 of 2020

1. Shanthi
2. S.Praveen Kumar (Minor)
3. S.Prasanth (Minor) ...Petitioners

(Petitioners 2 and 3 rep. by their Motor and Natural Guardian,
the 1st Petitioner)

vs.

1. The Secretary to Government,
State of Tamil Nadu,
Energy Department, Fort St. George,
Chennai - 600 009.
2. The Chief Electrical Inspector of Tamil Nadu,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
3. The Electrical Inspector,
Chennai (South Division),
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
4. M/s.Chitra Avenue Flat Owners Welfare Association,
Chitra Avenue,
No.9, Choolaimedu High Road,
Chennai - 600 094. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents 1 to 3 to pay just and fair compensation due to the accidental death caused to Sankar, S/o Kannan for their negligence and dereliction of statutory duties as mandated under the Tamilnadu Lifts and Escalators Act, 1997 and the Rules framed thereunder.

For Petitioner : Mr.S.Kamadevan

For Respondent 1 to 3 : Mr.U.Baranidharan
Government Advocate

For 4th Respondent : M/s.P.Chandrasekar



O R D E R

Petitioner has come up with this Writ Petition seeking a direction to Respondents 1 to 3 to pay just and fair compensation due to the accidental death caused to Sankar, S/o Kannan for their negligence and dereliction of statutory duties as mandated under the Tamilnadu Lifts and Escalators Act 1997 and the Rules framed thereunder.

2. It is stated by the Petitioner that, her husband viz. Sankar, who was involved in masonry work under a Maistry viz. Arumugham, was engaged by a flat owner in Shopping Inn Block of Chitra Avenue, Choolaimedu to carry out alteration/renovation work in the bathrooms of her Flat. On 07.09.2015, it was reported that, the Petitioner's husband could not be seen after lunch break. As he did not return even after late night, the Petitioner went to Chitra Avenue on the next day, i.e. on 08.09.2015 in search of her husband. Thereafter, she came to know that, her husband was found dead in the Lift pit, which was erected for the movement of the Lift upto seven floors. In this regard, the Petitioner lodged a Police complaint and the same was registered in Crime No.2519 of 2015 under Section 174 Cr.P.C. on 08.09.2015. It was informed that, investigation of the case is still pending.

3. It is further stated by the Petitioner that, an inspection was conducted in the premises in question with regard to the functioning of the Lifts as required under Tamil Nadu Lifts and Escalators Act, 1997 and the Rules framed thereunder. On inspection and verification of records, it was found that, no permission was obtained for installation of Lifts and no licence was obtained to operate the Lifts as mandated under the Act. It was also found that, the Lifts were allowed to operate by Respondents 2 and 3 without any licence and that, the Lifts were outdated and not safe for human movement. Hence, in order to avoid further casualties, the 3rd Respondent vide letter dated 14.09.2015 to the 4th Respondent Association, communicated to stop the operation of all Lifts immediately. Further, it was made clear that, the operation of the Lifts could be resumed only after getting Licence as required under the Act. Based on the said communication, the Administrator, who was looking after the day-to-day affairs of the premises in question at that relevant point of time, affixed a Notice dated 21.09.2015 and suspended the operation of the Lifts in all ten Blocks.

4. The case of the Petitioner is that, had Respondents 2 and 3 acted diligently and discharged their statutory duties adumbrated under the said Act, the accidental death of her husband could have been avoided. Hence, according to the Petitioner, Respondents 1 to 3 are liable to pay just and reasonable compensation for the unnatural death of her husband,



who died at the age of 30 years.

5. Learned counsel for the Petitioner submitted that, one of the Flat owners of the 4th Respondent herein engaged the services of the Petitioner's husband to carry out renovation work in her Flat and she did not apprise the Petitioner's husband or the Maistry about the condition of the Lifts in the premises. Learned counsel further submitted that, the Petitioner is entitled for compensation for the death of her husband and that, necessary direction may be issued to the Respondents in that regard.

6. Learned Government Advocate appearing for Respondents 1 to 3 submitted that, the Petitioner may be granted liberty to file an appropriate Claim Petition before the District Legal Services Authority, Chennai within a stipulated period, in order to enable the District Legal Services Authority to pass necessary orders as regards payment of compensation to the Petitioner.

7. Learned counsel appearing for the 4th Respondent submitted that, this Court may issue a direction to the District Legal Services Authority, Chennai, for ascertaining the compensation payable to the Petitioner, after issuing notice to the Petitioner.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. Considering the facts and circumstances of the case and taking note of the submissions of the learned counsel for the parties, this Court directs the Petitioner to file an appropriate Claim Petition before the District Legal Services Authority, Chennai, within a period of two weeks from the date of receipt of a copy of this order in respect of payment of compensation to her on account of unnatural death of her husband. The District Legal Services Authority, Chennai shall consider the Claim Petition of the Petitioner in accordance with law after issuing notice to the Petitioner and the 4th Respondent herein, and pass appropriate orders within a period of twelve weeks.

The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

(skt/aeb)

Sub Assistant Registrar



To:

1. The Secretary to Government,
State of Tamil Nadu,
Energy Department, Fort St. George,
Chennai - 600 009.
2. The Chief Electrical Inspector of Tamil Nadu,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
3. The Electrical Inspector,
Chennai (South Division),
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
4. The Secretary,
District Legal Services Authority,
Chennai.

+1cc to Mr.V.Umapathy, Advocate SR.No.

+1cc to Mr.S.Kamadevan, Advocate SR.No.58088

+1cc to Government Pleader SR.No.58022

W.P.No.2294 of 2020

SS(CO)
GMY(25/01/2022)