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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-12-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.34818 of 2014

And

MP No.1 of 2015

- 1.M.Suriya
- 2.M.Nitheswaran
- 3.Selvi
- 4.Palani

.. Petitioners

vs.

1. The Chief Secretary,
State of Tamil Nadu,
Secretariat,
Chennai.

(R-1 deleted as per order of Court
dated 05.01.2015 made in WP No.34818 of 2014)

2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.
3. The Commissioner of Police,
(Traffic and Maintenance Wing),
Veppery,
Chennai.
4. The Collector,
Office of Collectorate,
Singaravelan Maligai,
Chennai.

.. Respondents

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 a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation to the petitioner for the death of the first petitioner's husband Mathialagan.



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For Petitioners : Mr.M.A.R.Pragash
For Respondent-1 : Deleted as per order of Court dated 05.01.2015.
For Respondent-2 : No Appearance
For Respondents-3 and 4 : Mr.M.Rajendiran,
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation to the petitioners for the death of the first petitioner's husband Mathialagan.

2. The first petitioner is the wife of the deceased Mathialagan and the second petitioner is the son, the third and fourth petitioners are deceased parents. On 12.12.2013 at about 10.00 A.M., when the husband of the first petitioner was driving a two wheeler bearing Registration No.TN 09 BM 9544 along with his friend Mr.Kumar on their return from Sivavishnu temple at South Usman Road, T.Nagar, after worshipping, to his house. Due to heavy blow of wind, the iron barricade in the middle of the road fell and stabbed on stomach of the husband of the first petitioner and the deceased got severe wound in the liver and subsequently he died.

3. The learned counsel for the petitioners states that the negligence committed by the Authorities in placing such iron barricades on the middle of the road, more specifically, during heavy wind blow, caused the death of the husband of the first petitioner and therefore, the State is liable to pay compensation. But it was the negligence on the part of the Police Authorities, who were on duty and they have never made any attempt to remove the iron barricades placed on the middle of the road and therefore, the respondents are liable to pay compensation to the petitioners.

4. The deceased was the sole breadwinner of the family and on account of the sudden death of the husband of the first petitioner, the family was in penurious circumstances and they are not in a position to lead the livelihood. Thus, the petitioners are constrained to move the present writ petition.



5. The counter filed by the respondents reveals that the iron barricade was kept on the middle of the road. However, the respondents denied by stating that the two wheeler riders have to ride the two wheelers only at the left but while riding the two wheeler, the deceased ride the two wheeler in the centre portion of the road and committed the negligence and rash riding, the deceased fell himself along with the two wheeler on the road and hit the barricade placed on the middle of the road.

6. The respondents have stated that the iron barricades are made up with quality irons and 4-1/3 feet height, 6 feet length and 30 kgs of weight. The said barricades are being used only to regulate the traffic and to give free flow of traffic during peak hours. The Traffic Policemen are taking appropriate action to maintain the barricades properly in the interest of general public. Unfortunately, due to heavy wind, the barricade fell down in the South Usman Road and at the same time, the deceased hit the barricade and sustained injuries. Such a statement is self-contradictory in view of the fact that during heavy wind blow, no one can expect the two wheeler to ride the same towards left end of the road.

7. Therefore, this Court is of an opinion that the Authorities have committed an act of negligence by not removing the iron barricades, more specifically, when there was a heavy wind blow during the particular point of time. The issues raised regarding death in public places due to accidents are elaborately considered by this Court in WP No.8385 of 2015 etc. Batch of cases, and the the judgment was delivered on 29.10.2021, wherein this court in paragraphs 13 to 23, observed as under:-

"13. The Executives of the State play the pivotal role in maintenance of infrastructures in public places. The State has to ensure that such public infrastructure facilities are maintained up to the standards, so as to avoid such accidents in public places resulting loss of life. Undoubtedly, the Executives are duty bound to conduct inspections periodically and ensure such accidents do not happen at any circumstances. However, beyond their control, sometimes it happens. Thus, in such circumstances, the welfare State must look into the grievances and pay compensation at least to support the family in such emergency circumstances in an uniform manner.



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and such inconsistency result in denial of just compensation or appropriate compensation to the victims. Just or reasonable compensation is the 'subjective satisfaction' and can never be the satisfaction of the High Court in a writ proceedings. Thus, Constitutional mandate requires, State should formulate guidelines for the purpose of payment of compensation/exgratia to the victims, who are falling under the particular category. Since many number of writ petitions are pending before the High Court, the State is duty bound to formulate the guidelines/policies as quickly as possible, so as to minimize the inconsistency or discrimination in the matter of payment of ex gratia/compensation to the victims of the accidents in public places.

20. At this juncture, the learned counsels appearing on behalf of the petitioners raised a ground that, in the event of approaching the competent Court of law for claiming compensation under other Statutes, the said applications will be rejected on the ground of delay. It is needless to state that the period of pendency of writ petition before High Court is to be taken into consideration, if any petition to condone the delay is filed by the applicants.

21. Shri.Shiv Das Meena, I.A.S., Additional Chief Secretary to Government, Municipal Administration and Water Supply Department, has responded to the views expressed by this Court and communicated the letter, dated 28.10.2021 to the learned Additional Advocate General-V of Tamil Nadu. The swift action taken by the Additional Chief Secretary to Government of Tamil Nadu, stands appreciated.

22. The Principal Secretary, Revenue and Disaster Management Department, Government of Tamil Nadu, Chennai - 600 009 is suo-motu impleaded as respondent R3 in all these writ petitions for the purpose of participating in the discussion to be



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conducted by the State for formulating guidelines.

23. In view of the facts and circumstances, this Court is inclined to pass the following orders:

(1) The respondents are directed to formulate the guidelines and determine the quantum of compensation/ex gratia to the victims of accidents occurring in public places within a period of eight weeks from the date of receipt of a copy of this order.

(2) The writ petitioners are directed to submit their respective applications to the competent authority for compensation/ex gratia within a period of 12 weeks from the date of receipt of a copy of this order and the said applications are to be considered based on the guidelines to be formulated and the decision is to be taken within a period of eight weeks from the date of issuance of the guidelines/policies to be formulated by the respondents.

(3) Payment of compensation/ex gratia by the Government is not a bar for the eligible victims to claim Insurance benefits and compensations under various other welfare legislations in the manner known to law."

8. In respect of the judgment, cited supra, the Government has to formulate a Scheme, which is yet to be formulated. The payment of compensation/ex-gratia by the Government is not a bar for the victims to claim insurance benefits or compensation under various other welfare legislations in the manner known to law.

9. Under these circumstances, the petitioners are directed to submit an application to the Competent Authority for grant of compensation/ex-gratia, within a period of twelve weeks from the date of receipt of a copy of this order and on receipt of such application, the claim of the petitioners is to be considered based on the Scheme to be formulated and a decision is to be taken, within a period of eight weeks from the date of issuance of guidelines/policies by the Government.



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10. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.
2. The Commissioner of Police,
(Traffic and Maintenance Wing),
Veppery,
Chennai.
3. The Collector,
Office of Collectorate,
Singaravelan Maligai,
Chennai.

+1cc to Mr.M.Aloysius Raja Pragash, Advocate, S.R.No.64675

+1cc to the Government Pleader, S.R.No.65808

WP 34818 of 2014

PL(CO)
SU(17/12/2021)