



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 08.12.2021

DELIVERED ON: 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.2283 of 2014

and

M.P. (MD) .No.1 of 2014 and W.M.P. (MD) .No.17027 of 2016

Muthulakshmi @ Rajam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by,
The Principal Secretary,
Health Department,
Fort.St.George, Chennai.
- 2.The Director of Medical Education,
Office of the Director of Medical Education,
Chennai.
- 3.The District Collector and District Magistrate,
Madurai District.
- 4.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai, Madurai.
- 5.The Executive Engineer,
Public Works Department,
Office of the Public Works Department,
Penni Quick Building, Madurai.
- 6.The District Joint Director,
District Health Welfare Office,
Madurai.
- 7.The Dean,
Government Rajaji Hospital,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the respondents to pay rupees 2,00,000/- as compensation to the petitioner for the rat-bite in her left hand at ward number 101 in Government Rajaji Hospital on 23.01.2014.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr.B.Dhanasekaran
For R-1 to R-3 : Mr.J.John Rajadurai
and R-5 to R-7 : Government Advocate
For R-4 : Mr.R.Murali

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ORDER

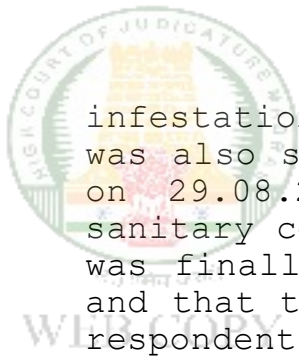
This Writ Petition has been filed in the nature of Mandamus seeking a direction against the respondents to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) as compensation to the petitioner for an alleged rat bite suffered by her in her left hand in Ward No.101 in Government Rajaji Hospital, Madurai on 23.01.2014.

2.The writ petitioner/Muthulakshmi @ Rajam was 50 years old at the time of filing the Writ Petition in the year 2014. Her son, Suresh had suffered grievous injuries in a road accident and was admitted as in-patient in Ward No.101 in Government Rajaji Hospital, Madurai on 19.01.2014. The petitioner and her husband alternatively took care of their son.

3.On 23.01.2014, when the petitioner was sleeping near the cot of her son, a rat bit her on her left elbow. She suffered pain and swelling. Since the pain increased, she took treatment as out-patient for rat bite in Government Rajaji Hospital, Madurai and the duty doctor also gave her medicine. She then gave a representation to the respondents on 01.02.2014 and sought abolition of rats from the hospital. Since there was no response, she had filed the Writ Petition seeking compensation of Rs.2,00,000/- (Rupees Two Lakhs only) for the injury suffered by her.

4.A counter had been filed by the seventh respondent/the Dean, Government Rajaji Hospital, Madurai, wherein, it had been stated that the son of the petitioner, Suresh was admitted in Ward No.101, Government Rajaji Hospital, Madurai on 19.01.2014 owing to injury suffered in a road traffic accident. It was stated that though the petitioner claimed that a rat had bitten her on 23.01.2014, she did not approach the medical officer on that very night but took treatment only on 31.01.2014. Further questions were raised whether she was actually bitten by a rat and if so, was it on 23.01.2014 and why she took treatment only on 31.01.2014.

5.It was further stated that in the out-patient slip issued to the petitioner on 31.01.2014, it was mentioned as rat bite and the diagnosis was based on the petitioner's statement. It was however stated that there was no evidence for such bite mark or wound. She was given Tetanus Toxoid injection and antibiotics and



infestation had also been mentioned in the counter affidavit. It was also stated that a Hospital Advisory Committee had been formed on 29.08.2012 and the committee was inspecting the work and sanitary conditions of the various departments in the hospital. It was finally stated that the allegation of the petitioner is false and that the Writ Petition should be dismissed. None of the other respondents had filed counter affidavit.

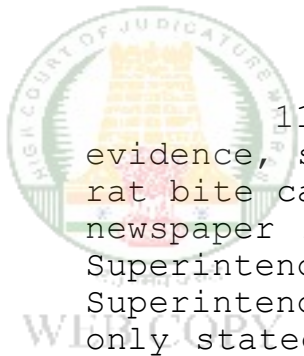
6.However, the first respondent/the State of Tamil Nadu represented by the Principal Secretary, Health Department, Fort.St.George, Chennai filed W.M.P.(MD).No.17027 of 2016 to delete the respondent as a party to the Writ Petition. It was stated that no specific relief had been claimed against the first respondent. It was also stated that it was the seventh respondent, the Dean of Government Rajaji Hospital, Madurai who is competent to examine the issues such as pest control of the said hospital.

7.Heard arguments advanced by Mr.B.Dhanasekaran, learned counsel for the petitioner and by Mr.J.John Rajadurai, learned Government Counsel for respondents 1 to 3 and 5 to 7 and Mr.R.Murali, learned Standing Counsel for the fourth respondent. I have carefully considered the arguments advanced and the records available.

8.This is a Writ Petition seeking, payment of compensation of a sum of Rs.2,00,000/- (Rupees Two lakhs only) for alleged rat bite suffered by the writ petitioner when she was in Government Rajaji Hospital at Madurai taking care of her son who had suffered injuries owing to road accident. The said rat bite is said to have taken place in the middle of the night on 23.01.2014. The petitioner actually took treatment for the same only on 31.01.2014. She was very much present in the hospital and she could have just walked out of the door, contacted any nurse or doctor who was available and taken treatment immediately when she had suffered rat bite. The only explanation given is that the swelling and the pain increased and therefore, on 31.01.2014, she had taken treatment.

9.A copy of the medical receipt given to the petitioner on 31.01.2014 had been enclosed as a document to the Writ Petition and it is seen that the duty doctor, whose name and other details are not known or rather not identifiable, had mentioned rat bite as the nature of treatment given.

10.The petitioner also placed for consideration, reports in the newspapers, with specific reference to this particular incident. The incident had been reported in Dhinamani on 01.02.2014, Dhinathandhi on 02.02.2014 and in Indian Express on 02.02.2014. There were reports that rat bite was suffered by the writ petitioner, Muthulakshmi.



11. Eventhough newspaper reports cannot be conclusive evidence, still the probability of the petitioner having suffered a rat bite can only be inferred as true owing to the reports. In the newspaper items, there is no specific denial given by the Medical Superintendent of Government Rajaji Hospital, Madurai. The Medical Superintendent, Murugesan, when contacted by Indian Express had only stated that blockages in the drainage system has laid to rat menace in the hospital.

12. It may not be proper on the part of this Court to rely on newspaper reports, but in this case, I hold that it is justifiable on my part to hold that the fact that the petitioner had suffered rat bite cannot be brushed under the carpet and stated to be a false statement. If it was actually a false statement, then responsible officers of the Government Rajaji Hospital at Madurai would have certainly given a rejoinder to the newspaper items. Therefore, while examining a particular fact in the Writ Petition, strict rules of evidence do not apply but existence of a fact can be taken judicial note by surrounding circumstances, I hold that the claim of the petitioner that she actually suffered a rat bite has to be taken as a true claim.

13. In (2019) 5 SCC page 391, **The Branch Manager, National Insurance Co. Ltd. Vs. Smt. Mousumi Bhattacharjee and others**, the Hon'ble Supreme Court had examined a case where compensation was sought for death due to mosquito bite in Mozambique. The Hon'ble Supreme Court while examining the term, "Accident" and referred to the judgment reported in (1984) 4 SCC page 246, **Union of India Vs. Sunil Kumar Ghosh**, where it was held as follows:

"13...An accident is an occurrence or an event which is unforeseen and startles one when it takes place but does not startle one when it does not take place. It is the happening of the unexpected, not the happening of the expected, which is called an accident. In other words an event or occurrence the happening of which is ordinarily expected in the normal course by almost everyone undertaking a rail journey cannot be called an "accident". But the happening of something which is not inherent in the normal course of events, and which is not ordinarily expected to happen or occur, is called a mishap or an accident."

14. The Hon'ble Supreme Court also referred to **1993 Supplement (4) SCC page 100, Regional Director, ESI Corporation v Francis De Costa**, wherein, again the expression 'accident' had been examined and stated as follows:

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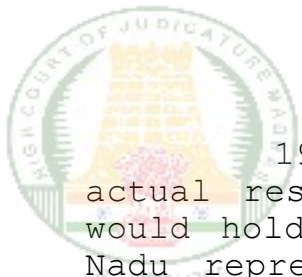
"4...The popular and ordinary sense of the word 'accident' means the mishap or an untoward happening not expected and designed to have an occurrence is an accident. It must be regarded as an accident, from the point of view of the workman who suffers from it, that its occurrence is unexpected and without design on his part, although either intentionally caused by the author of the act or otherwise."

15. Thereafter, the Hon'ble Supreme Court had examined the probability of a mosquito bite in Mozambique and death due to malaria suffered by such mosquito bite. It was also observed that malaria is most commonly transmitted to humans through malaria virus infested mosquito bites and therefore, it cannot be deemed to be an unexpected or unforeseen accident. In view of the said reasoning, grant of compensation by the Consumer Courts was interfered.

16. In the instant case, however, if the same principle were to be applied, it would be very damaging for the respondents since this Court would have to observe that rat bites in the respondent hospital is a common incident and not an unforeseen accident. If it were to be so observed, then the respondents would have much explanation to give regarding the manner in which they maintain the cleanliness and sanitary conditions of the hospital. Therefore, I have to necessarily hold that the rat bite in Government Rajaji Hospital, Madurai is an unforeseen accident and when an accident occurs which is unforeseen, then compensation is automatically payable. I therefore hold that the petitioner deserves to be compensated for the rat bite suffered by her in the middle of the night on 23.01.2014 while at Government Rajaji Hospital, Madurai.

17.The further aspect to be considered is the compensation which has to be given to the petitioner and the particular respondent on whom the liability is to be cast. In the instant case, the petitioner had suffered rat bite on 23.01.2014 and had taken treatment only on 31.01.2014 and even that particular treatment was only an one time treatment and there is no evidence or documents provided by the petitioner that she has to undergo a protracted treatment spreading over a number of days.

18.In view of that particular fact, I would hold that the grant of compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) would more than suffice for the shock suffered by the petitioner being bitten by a rat in the middle of the night in the hospital premises.



19. The next aspect to be examined is to determine the actual respondent, on whom this liability is to be imposed. I would hold that the first respondent namely, the State of Tamil Nadu represented by the Principal Secretary, Health Department, Fort St. George, Chennai is the ultimate official to grant compensation. Eventhough an application has been filed by the said respondent seeking to delete him as a party to the Writ Petition, I hold that the said application has been filed only with a motive to escape liability. The said application is therefore dismissed.

20. Therefore, I would direct that the Writ Petition be allowed by granting compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) to the writ petitioner payable by the first respondent.

21. In the result,

(i) W.P.(MD).No.2283 of 2014 is allowed with a compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) directed to be paid by the first respondent to the petitioner.

(ii) No directions are required in M.P(MD).No.1 of 2014, which application is for a direction to frame a special plan and scheme for abolition of rats in Government Rajaji Hospital, Madurai. Eventhough the objective of the said application is laudable, I do not think after seven (7) years of the incident, this application can be examined and therefore, I would close the said application. The application is closed.

(iii) W.M.P(MD).No.17027 of 2016 is dismissed.

(iv) No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

Nsr/Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

- 1.The Principal Secretary,
The State of Tamil Nadu,
Health Department,
Fort.St.George, Chennai.
- 2.The Director of Medical Education,
Office of the Director of Medical Education,
Chennai.
- 3.The District Collector and District Magistrate,
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- 4.The Commissioner,
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- 5.The Executive Engineer,
Public Works Department,
Office of the Public Works Department,
Penni Quick Building, Madurai.
- 6.The District Joint Director,
District Health Welfare Office,
Madurai.
- 7.The Dean,
Government Rajaji Hospital,
Madurai.

+1 CC to M/s.SPL GP (SR-39493[F] dated 20/12/2021)

**Order made in
W.P. (MD) .No.2283 of 2014**

16.12.2021

USK (29.12.2021) 7P 9C