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W.P.No.14289 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

**THE HONOURABLE MR. JUSTICE S.S.SUNDAR**

W.P.No.14289 of 2015

1.M.Rajeswaran

2.R.Rani

...Petitioners

-Vs-

1.The State of Tamil Nadu,  
Rep by. its Secretary,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai – 600 009.

2.The Director General of Police,  
Dr.Radhakrishnan Salai,  
Chennai.

3.The Inspector of Police,  
D-1, Chengalpet Police Station,  
Chengalpet,  
Kanchipuram District.

4.The State Legal Services Authority,  
Rep by its Member Secretary,  
High Court Campus,  
Chennai.

...Respondents

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for records of the 4<sup>th</sup> respondent pertaining to the order dated 23.02.2015 made in



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ROC.No.6/2015 of the petitioner claim application and quash the same and consequently direct the 4<sup>th</sup> respondent to take on file the petitioner application and decide the case on merit in time bound manner.

For Petitioner : Mr.T.Venugopal for  
M/s.A.Mohammed Ismail

For Respondents : Mr.L.S.M.Hasan Fizal  
Additional Government Pleader

### **ORDER**

This writ petition is filed for issuance of writ of certiorarified mandamus to quash the impugned proceedings of the 4<sup>th</sup> respondent dated 23.02.2015 made in ROC.No.6/2015 and directing the 4<sup>th</sup> respondent to take on file the petitioner's application and to decide the petitioner's claim.

2. The claim is under the scheme called as “Tamil Nadu Victim Compensation Scheme 2013”.

3. Brief facts that are necessary for the disposal of this writ petition are as follows:



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4. The petitioners are parents of one Mr. Karthik, who died in a motor vehicle accident. It is the specific case of the petitioners that their son after he got down from a bus at Chengalpattu, was knocked down by another Tamil Nadu State Government bus whose registration number could not been noticed. It is stated that petitioners' son died as a result of accident.

5. It is stated that the accident was immediately reported to the 3<sup>rd</sup> respondent police. Though the 3<sup>rd</sup> respondent registered the case in crime No.789 of 2014 under Section 304A of IPC and recorded the same as a case of hit and run, it is stated that the 3<sup>rd</sup> respondent could neither identify nor secure the vehicle and the driver of the vehicle which hit the petitioner's son.

6. The petitioners thereafter filed an application for compensation under Tamil Nadu Victim Compensation Scheme 2013 before the 4<sup>th</sup> respondent. The application was returned and it was resubmitted by the petitioners. Thereafter the said application was once again returned by order dated 23.02.2015 on the ground that there is a specific provision under Section 161 of Motor Vehicle Act by covering the claim of the petitioners, and that therefore the scheme is not applicable to the petitioners.



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7. On reading of Tamil Nadu Victim Compensation Scheme, 2013, this Court is able to see that the scheme was framed by the Government in exercise of the power conferred under Section 357(A) of The Code of Criminal Procedure, 1973 (Act 2 of 1974). The scheme contemplates providing funds by way of compensation to the victim or his dependents who have suffered loss or injury as a result of crime and who require rehabilitation.

8. The term “crime” is defined in Section 2(c) of the said scheme to mean illegal acts or omission or commission made punishable by any law or an offence committed against the human body of the victim. In this case the son of the petitioners is the victim of the crime which is punishable under Section 304A of IPC. Therefore the applicability of the scheme to the petitioners cannot be an issue. The application submitted by the petitioners is also well intact. This Court is of the view that the impugned order dated 23.02.2015 passed by the 4<sup>th</sup> respondent is without any application of mind. The application submitted by the petitioners is valid as per the Scheme in reference.



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9. Therefore this writ petition is allowed and the impugned order in ROC.No.6/2015 dated 23.02.2015 passed by the 4<sup>th</sup> respondent is hereby set aside. This Court directs the 4<sup>th</sup> respondent to consider the application of the petitioners filed under Tamil Nadu Victim Compensation Scheme 2013 in accordance with law and the State to disburse the compensation immediately in terms of the final order passed by the 4<sup>th</sup> respondent which shall be within twelve weeks from the date of receipt of this order. No costs.

03.11.2022

cda

To

- 1.The Secretary,  
The State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai – 600 009.
- 2.The Director General of Police,  
Dr.Radhakrishnan Salai,  
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**S.S.SUNDAR. J.,**

cda

- 3.The Inspector of Police,  
D-1, Chengalpet Police Station,  
Chengalpet,  
Kanchipuram District.
- 4.The Member Secretary,  
The State Legal Services Authority,  
High Court Campus,  
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