



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.6001 of 2019

and

WMP(MD)Nos.4793 & 4794 of 2019

WEB COPY

B.Prabakaran

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home (Prison IV) Department,
Government of Tamilnadu,
Fort St.George,
Chennai.

2.The Superintendent of Prison,
Women Special Prison,
Trichy - 8.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, after calling for the records from the respondents relating to the impugned orders of the 1st respondent dated 20.10.2015 passed in G.O. (20)No.345, Home (Prison IV) Department and the 2nd respondent dated 21.10.2017 passed in proceedings No.3417/Po.1/2012, quash the same in so far as ordering recovery of the compensation amount Rs.2,68,265/- from the petitioner and consequently direct the respondents to refund the entire amount recovered from his monthly wages from the month of October, 2017, together with 18% interest.

For Petitioner :Mr.S.Arunachalam

For R1 & R2 :Mr.D.S.Nedunchezian
Government Advocate

O R D E R

The order dated 21.10.2017 imposing recovery based on the Award passed by the Motor Accidents Claims Tribunal in M.C.O.P.No.4941 of 2013 is under challenge in the present writ petition.

2. The petitioner was working as Warden / Driver in Central Prison, Tiruchirappalli. He was driving the Ambulance, bearing Reg.No.TN-45-G-526 from the Women Special Prison, under the control of the second respondent, to take medicine from the Central Prison. When the vehicle reached Trichy - Manarpuram Junction, a two wheeler got hit the Ambulance driven by the petitioner and the petitioner immediately stopped the vehicle. The rider of the two wheeler sustained grievous injuries.



3. The petitioner states that he was not at fault in the accident. However, FIR was registered in Crime No.209 of 2011 under Sections 299 and 388 IPC. The petitioner himself states that he could have conducted the case and proved his innocence. However, he has acted on the ill-advice of the Inspector of Police, South Traffic Police Station. The fact remains that the petitioner admitted his guilt and paid the fine amount of Rs.800/-. Thereafter, the aggrieved person filed MCOP No.4941 of 2013 and the Motor Accident Claims Tribunal passed an Award granting compensation.

4. The learned counsel for the petitioner mainly contended that the petitioner was not at fault and he acted as per the ill advice of the Inspector of Police. This apart, the petitioner was working as driver and in the event of imposing recovery, hardship would be caused.

5. The learned Additional Government Pleader objected the said contentions by stating that the petitioner admitted the guilty and paid the fine amount. Once a person admitted the guilt and paid the fine amount, then, he cannot seek any exoneration from the consequential order. This apart, the aggrieved person filed MCOP No.4941 of 2013 and the Motor Accident Claims Tribunal passed an Award granting compensation. Therefore, the award amount is to be settled by the Government at the first instance and recover the same from the petitioner, who drove the vehicle. This being the procedures being followed there is no infirmity as such in respect of the order.

6. There are two circumstances, which may be considered by this Court with reference to the issues raised in this writ petition. In respect of the Government vehicle, admittedly, it is not insured. As far as the accidents are concerned, if at all a criminal case has been registered and the driver of the vehicle pleads innocence, then he has to conduct the case. A person claims that he is not at fault cannot admit the guilt. The mere statement that the petitioner acted due to the ill advice of the Inspector cannot be a ground for exoneration in the writ proceedings.

7. In the present case, admittedly, the petitioner has not contested the case, admitted the guilt and paid the fine amount. At least the petitioner would have contested the Motor Accident Claims case. Even before the Tribunal he has not contested the case for establishing his case that he is not at fall. Under these circumstances, the High Court cannot form a different opinion in respect of the liability. If at all a person seeks liability from compensation, then he is bound to establish his innocence or the Tribunal if made a finding that there is no negligence on the part of the driver then also the Court will be in a position to consider the case.



8. In the absence of any one of such findings by the Tribunal, the High Court cannot independently form an opinion beyond the scope of the findings for the purpose of granting exoneration. Admittedly, the impugned order of recovery was issued based on the Award passed by the Motor Accidents Claims Tribunal and the Government has to settle the compensation and recover the same from the person, who is responsible for such financial loss to State exchequer.

9. In respect of the accident due to the drivers of the Government vehicle, the tax payer money cannot be spent. No doubt, the aggrieved person is entitled to get compensation and the Government is bound to settle the compensation immediately and thereafter recover the same from the employee concerned.

10. In the present case, the authorities competent issued the order of recovery after the award passed by the Motor Accident Claims Tribunal and therefore, there is no infirmity in respect of the order impugned. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, the connected miscellaneous petition are also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The Principal Secretary to Government,
Home (Prison IV) Department,
Government of Tamilnadu,
Fort St.George,
Chennai.

2.The Superintendent of Prison,
Women Special Prison,
Trichy - 8.

+1 CC to M/s.SPL.GP (SR-5720[F] dated 11/02/2022)

W.P. (MD)No.6001 of 2019

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