



W.P(MD)No.6026 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6026 of 2019

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... Petitioner

Vs.

- 1.The Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan, Parliament Street,
New Delhi.
- 2.The Chairman,
National Highways Authority of India,
G5&6, Sector-10, Dwarka,
New Delhi-110075.
- 3.The Home Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai.
4. The District Collector,
Trichy District, Trichy.
- 5.The Chief General Manager,
National Highways Authority of India,
Butt Road, Kathipara, Chennai-16.
- 6.The Project Director,
Trichy Zone,
National Highways Authority of India,
Karumandapam, Trichy.



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7.The Manager,
Ponnampalampatti Toll Plaza,
Trichy-Dindigul National Highway,
Manapparai Taluk, Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.5,00,000 towards compensation to the petitioners family based on his representation dated 06.02.2019 within the time frame as fixed by this Court.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.G.Suriyanant,
Addl. Government Pleader for R3 & R4.
Mrs.L.Victoria Gowri,
Asst. Solicitor General for R1 & R2.
Mr.C.Arul Vadivel @ Sekar,
Standing Counsel for R2, R5 & R6.
Mr.S.Kannan for R7.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner's wife/Ponnammal was walking on Trichy-Dindigul National Highway and was nearing the toll plaza situated at Ponnambalampatti on 15.07.2018 at around 12.00 noon. The notice board put up by the toll plaza



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suddenly fell down on the petitioner's wife and she died on the spot. In this regard, Crime No.140 of 2018 was registered on the file of Vaiyampatti Police Station. Seeking compensation for his wife's death, the present writ petition has been filed.

2.NHA filed a detailed counter affidavit and the learned standing counsel took me through its contents. The primary contention of the learned standing counsel for NHA is that NHA cannot be made liable for the occurrence and the entire liability must be fastened on the concessionaire/seventh respondent. In the alternative, the learned standing counsel would plead that only on account of sudden gust of wind, the occurrence had taken place and that it should be construed as an act of God and that NHAI must be absolved of all liability.

3.I do not find any merit in either of the contentions advanced by the learned standing counsel. It is true that there is an agreement between NHA and the concessionaire but the petitioner is not party to it. While NHA may recover the liability eventually from the concessionaire, the primary liability to pay the petitioner will fall only on NHAI. NHAI cannot take umbrage behind the concession agreement in this writ proceedings.



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4.As regards the defence anchored on the act of God, again I have to necessarily reject the said contention. The petitioner's wife died because the huge steel notice board put up near toll plaza fell on the petitioner's wife. This Court will not go into the reason as to how the steel notice board had fallen. It could be because it was not firmly installed. In such matters, absolute liability has to be fastened.

5.Having rejected both the defences put forth by the learned standing counsel for NHAI, the next question that arises for consideration is regarding the quantum of compensation. According to the petitioner, his wife was aged about 59 years at the time death. She was said to be a coolie worker. The petitioner has claimed only a sum of Rs.5,00,000/- from NHAI. It is appears to be reasonable. NHAI is directed to pay a sum of Rs.5,00,000/- to the petitioner forthwith and without any. If the said amount is not paid within a period of eight weeks from the date of receipt of a copy of this order, it will carry interest 6% per annum. As regards the right of NHAI to recover the said amount from concessionaire the issue is left open.



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6.The writ petition is allowed accordingly. No costs.

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Index : Yes / No
Internet : Yes/ No
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To:-

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Trichy District, Trichy.



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G.R.SWAMINATHAN, J.

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