



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1071 of 2017 and

W.M.P.(MD)No.911 of 2017 & 4155 of 2022

WEB COPY

K.Machathevan

... Petitioner

Vs.

1. The Superintending Engineer,
Public Work Department,
Periyar-Vaigai Basin Circle,
Thallakulam,
Madurai.
2. The Executive Engineer,
Public Work Department,
Periyar-Vaigai Basin Circle,
Thallakulam,
Madurai.
3. The Superintendent Engineer,
Highways Department,
Alagarkovil Road,
Madurai.
4. The Assistant Divisional Engineer,
Highways Department,
Vallabha Ganapathy Street,
Vadipatti,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay compensation to the petitioner a sum of Rs.15,00,000/- for the death of his son caused by the negligence act of the respondents.

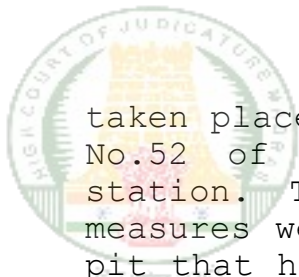
For Petitioner : Mr.C.M.Arumugam
For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner's son Devapandi died on 03.02.2013 by falling into the pit dug by the respondents for constructing a bridge across the road at Thethur Village in Vadipatti Taluk. The incident had



taken place on 03.02.2013 at around 10.00 p.m. In this regard, Crime No.52 of 2013 was registered on the file of Vadipatti police station. The stand of the petitioner is that no precautionary measures were taken for warning the members of the public about the pit that had been dug across the road. According to the petitioner, the occurrence had taken place entirely due to the negligence of the respondents and therefore, he wants the respondents to pay a sum of Rs.15,00,000/- as compensation. The petitioner's son Devapandi had completed his graduation and was 21 years old.

3. The respondents have filed a detailed counter affidavit denying the allegations. After hearing the learned counsel on either side, I am afraid that I cannot grant any relief in these proceedings. This is for more than one reason. The occurrence had taken place on 03.02.2013. The writ petitioner filed the writ petition only in January 2017. Thus, there has been a lapse of almost four years between the date of occurrence and the filing of the writ petition. A direction for payment of compensation can be ordered only if it can be established that the respondents were guilty of negligence. This is essentially a question of fact. Unlike a case of electrocution, in this case one cannot arrive at any definite conclusion regarding the liability in these proceedings. The petitioner would state that no sign boards had been erected. This allegation is denied in the counter affidavit. Based on the pleadings, I am not in a position to arrive at a conclusion that the respondents were guilty of negligence. When I cannot find any negligence, I also cannot grant the relief. Therefore, this writ petition stands dismissed. It is open to the petitioner to work out his remedy by filing a civil suit.

4. The petitioner's counsel drew my attention to the order dated 15.07.2020 made in W.P.(MD)Nos.27070 and 27072 of 2019 in which I had made it clear that if the suit is filed by the claimant within a time frame, it will not be hit by limitation. The petitioner states that he will file the suit before the jurisdictional civil Court claiming compensation within two months. If within two months, the suit is filed by the petitioner, it will not be rejected on the ground of limitation. Neither will the respondents raise the plea of limitation in the written statement. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

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



To:

1. The Superintending Engineer,
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Madurai District.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-25222[F] dated 10/06/2022)

+1 CC to M/s.SPL.GP (SR-25149[F] dated 10/06/2022)

W.P. (MD)No.1071 of 2017

08.06.2022

IM(CO)

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