



WP No.21820 and 21821 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos.21820 and 21821 of 2018
and W.M.P. Nos.25595 and 25596 of 2018

Iyappan
Baskar

... Petitioner in W.P.No.21820 of 2018
... Petitioner in W.P.No.21821 of 2018

Versus

1. The Secretary to Government,
Department of Highways, Mines and Ports ,
Fort st. George, Secretariat, Chennai-600 009.

2. M/s.Tamil Nadu Road Development company Ltd (TNRDC),
Chairman & Managing Director,
Corporation office 171, 2nd Floor,
TNMB Building,
Greenways Road, Raja Annamalai puram,
Chennai-28

3. M/s.GVR Ashoka Chennai outer Ring Road Ltd.,
VBC Solitarire,
9th Bazullah Rd,
T.Nagar, Chennai-600 017.

4. S.P.V.Constructions
No.79 L.B.Road,
Thiruvanmiyur, Chennai-600 041.

5 M/s.ARC Builders and Promoters,
No.3 Middle street, Acharapakkam
Kancheepuram District 603 301.



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6. M/S. ORIENTAL INSURANCE COMPANY LIMITED,
Rep. by its Manager, Oriental House II Floor,
New No.216 (Old No.115), Prakasam Salai, Broadway,
Chennai - 600108.

(R6 IMPEADED VIDE ORDER DATED 11.11.2022
in WMP.Nos.16936 and 16939 of 2022 in WP.Nos.
21820 and 21821 of 2018 by this Court)

... Respondents in both the petitions

Prayer in W.P.No.21820 of 2017: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus direct the Respondents 1 to 5 to compensate the petitioner to the tune of Rs.1, 31, 30, 000/- for the loss suffered.

Prayer in W.P.No.21821 of 2017: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus direct the Respondents 1 to 5 to compensate the petitioner to the tune of Rs.1,96,00 000/- for the loss suffered.

For Petitioners	:	Mr.J.Srinivasa Mohan M/s.TVJ Associates (for both the matters)
For Respondents	:	Mr.M.Alagu Gautham,GA R1 Mr.Sivavarthan R2 Mr.K.Ravindranath For M/s.V.J.Arulraj R3 Mr.G.Guruswaminathan for M/s.Nageswaran Narichamia R6 No appearance for RR4 & 5 (for both the matters)

COMMON ORDER

Since the issue involved in both the cases are one and the same and hence, both the cases are disposed by way of common order.



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2. W.P.No.17273 of 2017 has filed seeking to quash the notice issued by the second and fourth respondents in demand notice pursuant to file No.107 dated 28.07.2016.

3. W.P.No.35776 of 2019 has filed seeking to quash demand notice issued by the second respondent dated nil.

4. It is the case of the petitioners that there was the accident occurred in the late night of 23.11.2017, which involved a car bearing Reg. No.TN 11 J 5555 driven by Mr.Kandavel (Driver) and accompanied by a group of family members viz., Palani, Navaneetham, Iyappan and Pavithra. The said incident had happened during the travel made by the above said people while returning from Minjur to Chennai via National Highway. The travel had resulted into a terrible accident and caused the death of three innocent lives and caused severe injury to the petitioners also. Due to which, the petitioners made a representation seeking compensation for the damage caused because of the negligence made by the respondents. However, till date, no action is taken and hence, both the petitions have filed.

5. The learned counsel for the petitioners submitted that the cause of the



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accident was the travel made by the above said people into the bridge without knowing the fact that the bridge construction was unfinished as well no barricades, sign boards or danger signs were kept in the way to indicate the nature of the construction of the bridge. Thereby, an accident had occurred, due to which, three lives were lost. However, the petitioners and their family members travelled a car, is insured one and the project work also insured by the 3rd respondent. Therefore, this Court may direct the respondents to pay a suitable compensation to the petitioners.

6. The learned Standing Counsel appearing for the second respondent submitted that as per the concession agreement dated 18.09.2013 entered into between the first and third respondent, it is the obligation of the 3rd respondent who is the concessionaire to take all safety precaution in execution of the project work and the same is duly followed. Further, all the risks and contingencies which occur during execution of the project work are to be insured by the third respondent and it is also done by the third respondent. The second respondent has already rejected the claim of the petitioner by the letter dated 11.04.2018 and their liability and negligence are disputed. Hence, the petitioners ought to have approached the proper forum the relief claimed in the writ petition. The learned counsel further submitted that there is no negligence



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on the part of the respondents 1 & 2 in construction of the Chennai Outer Ring Road Project-II and death of the family members of the petitioners is not because of the negligence on the part of the respondents and therefore, the writ petitions may be dismissed.

7. Heard the learned counsel for the petitioners as well as the learned Standing Counsel appearing on behalf of the respondents, and perused the materials available on record.

8. As rightly submitted by the learned Government counsel that since it is a disputed question of fact between the parties and it is purely civil in nature, this Court cannot be decided the issue, the petitioners have to approach the competent civil forum.

9. Considering the facts and circumstances of the case, this Court, without going into the merits of the case, permit the petitioners to file a petition/application against the respondents before the MCOP Court for getting compensation. If the petitioners file a petition/application, the concerned Judge, shall decide the issue independently, after giving opportunity to the petitioners as well as the owner of the car and the insurance company,



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on merits and in accordance with law as expeditiously as possible. The period pending before this Court shall be excluded for limitation.

10. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

20.04.2023

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To

1. The Secretary to Government,
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Fort st. George, Secretariat, Chennai-600 009.

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M. DHANDAPANI, J

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