



W.P.No.23528 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HON'BLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No. 23528 of 2023

and W.M.P.No. 23031 of 2023

Subash
S/o. Kuppusamy

... Petitioner

Vs.

1. The State of Tamilnadu
Represented by its Additional Chief Secretary
Home Department, Fort St. George
Chennai-600009.

2. The Registrar
Tamilnadu Human Rights Commission (State)
No.143, Kumarasamy Raja Salai
Chennai-600028

3. The Director General of Police
Tamilnadu Circle, Mylapore
Chennai-600004

4. Gunaseelan

5. Felix Raja (since discharged)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari and Mandamus, to call for the records of the



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second respondent State Human Rights Commission in SHRC No.6042 of 2016 dated 26.09.2022 and quash the same, in respect of awarding Rs.2,00,000/- (Rupees Two Lakhs) instead of Rs. 50,00,000/- (Rupees Fifty Lakhs) as compensation of the deceased son Venkataraj aged 26 years, only earning member of the family of the petitioner, on human consideration to secure the ends of justice.

For Petitioner : Mr.R.Sankara Subbu
For Respondents : Mr. E.Vijay Anand
Additional Government Pleader for R1
Mr.C. Jayapraksh
Standing Counsel for R2
Mr. C.E. Pratap
Government Advocate (Crl. Side) for R3

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This writ petition is filed challenging the order dated 26.09.2022 passed by the 2nd respondent in SHRC Case No.6042 of 2016 only insofar as the awarding a compensation of Rs.2,00,000/- to the complainant/petitioner is concerned.

2. (i) It is the case of the petitioner that his son Venkatraj, who is aged about 26 years was done to death by Gunaseelan, Grade – I Constable No.605 and Felix Raj, Home Guard, Hasthampatti Police Station, Salem District on 18.07.2016 at 00.45 hours and a case was wrongly registered for an offence



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under Sections 279, 304(A) of I.P.C. It is the further case of the petitioner that an eye witness, Arunkumar had informed that when the petitioner's son Venkatraj was proceeding towards Balabarathi School at about 00.45 hours on 18.07.2016, during the vehicle check, the Police intercepted Venkatraj who was driving Hero Honda Splendor. At that time, he did not stop the vehicle and hence, Gunaseelan, Grade – I Constable No.605 attacked him by using Lathi on his back and Felix Raj, Home Guard attacked him by using Lathi on his face. Due to the sudden attack by the above said police personnel, Venkatraj lost his control and dashed against a pillar.

(ii)Immediately, he was taken to the Government Hospital, where he was declared dead. Therefore, the petitioner preferred a complaint before the Tamilnadu State Human Rights Commissioner/2nd respondent. However, the 2nd respondent, after enquiry, awarded only a compensation of Rs.2,00,000/- to the petitioner on 26.09.2022. Hence, the present writ petition has been filed for enhancement of compensation.

3. Learned counsel for the petitioner would submit that the petitioner has given a representation before the first respondent herein on 07.12.2022 to enhance the compensation to Rs.50,00,000/-, as his son was working in AVR



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Swarna Mahal as Salesman and was receiving a sum of Rs.13,000/- as his monthly salary and he is the only earning member of the family. But the said representation has not been considered by the first respondent. He would further state that only due to the sudden attack by the police personnels, his son lost his control while riding the motor bike and dashed against the pillar and succumbed to injury. The compensation of Rs.2,00,000/- awarded is very meagre amount and hence, the same has to be enhanced.

4. Learned Standing Counsel appearing for the 2nd respondent would submit that in pursuant to the orders passed by the 2nd respondent, the 1st respondent has paid a sum of Rs.2,00,000/- as compensation to the petitioner, for the death of his son, Venkataraj. The said sum has also been received by the petitioner.

5. The learned counsel appearing for the petitioner also did not dispute the receipt of the amount of Rs.2,00,000/- as compensation by the 1st respondent.

6. The learned Standing Counsel appearing for the second respondent



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would further submit that when Venkatraj proceeding towards Balabarathi School, at about 00.45 hours on 18.07.2016, during vehicle check, he was intercepted by the Police personnel. On seeing the Police, Venkatraj, did not stop the vehicle. He lost control of his vehicle and dashed against the pillar and got severe injuries. Immediately, he was taken to Government Hospital, where he was declared dead.

7. The learned Government Advocate (Crl.side) appearing for the third respondent would rely on the post mortem report of Venkatraj which clearly establish that at the time of accident, he was in an inebriated condition and he is the tort-feasor to the accident. Hence, according to him, the second respondent ought to have dismissed the case. However, based on the order passed by the second respondent, the first respondent paid Rs.2,00,000/- to the petitioner as compensation. Therefore, the petitioner is not entitled for enhancement of compensation and he would pray to dismiss the writ petition.

8. We have considered the above submissions made on either side and perused the materials available on record.



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9. The order passed by the second respondent clearly indicate that the second respondent came to the conclusion that there is violation on the part of the 4th and 5th respondents based on the proof affidavit filed by one Thangavelu stating that Gunaseelan, Grade I Police Constable and Felix Raja, Home Guard, hit the deceased Venkatraj with Lathi, while he was riding his motorcycle and because of such beating by both the Police Constables, he lost his balance and fell down by dashing against the EB Post situated there and thereafter, he was declared dead in the hospital.

10. The second respondent has further observed in the order that without getting any official instruction from their higher officials, Gunaseelan, Grade I Police Constable and Felix Raja, Home Guard, had conducted vehicle check and during that time, the deceased had met with an accident and died. The second respondent also observed that during that time, the police personnel have not taken due care while discharging their official duty and caused loss of life of a rider.

11. Disciplinary proceedings was initiated by the third respondent against Gunaseelan, Grade I Police Constable by suspending him for two



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weeks and dismissing Felix Raja, Home Guard from service. Though it is concluded that the petitioners have committed human rights violation, there is also fault on the part of the deceased as the post mortem report opined that “the deceased would appear to have died of effects of multiple injuries with evidence of consumption of ethyl alcohol”. Therefore, based on the said post mortem report, the second respondent had awarded compensation of Rs.2,00,000/- to be paid by the first respondent to the petitioner, who is the father of Venkatraj. The present writ petition has been filed only for enhancement of compensation.

12. In view of the above discussion, we find no infirmity or illegality in the order passed by the second respondent and the petitioner is not entitled for any enhancement of compensation. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B., J.)

(N.M., J.)

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Index : Yes / No

Internet : Yes / No

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