



WEB COPY



W.P. No. 32982 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32982 of 2023

Arasakumar

... Petitioner

-VS-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
3. The Superintending Engineer,
Parks Department,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
4. The Executive Engineer,
Greater Chennai Corporation Zone – 10,
No. 64, N.S.K.Salai,
Kodambakkam,
Chennai – 600 024.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents particularly the Second Respondent to consider the Petitioner's representation



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dated 18.04.2023 further to pay a sum of Rs. Three Crore as compensation along with 9% interest to the Petitioner.

For Petitioner : Mr. K.V.Muthuvisakan

For Respondents : Mr. E.Veda Bagath Singh,
Special Government Pleader (for R1)

Ms. K.Ashwini Devi,
Standing Counsel (for R2 to R4)

ORDER

Heard Mr. K.V.Muthuvisakan, Learned Counsel for the Petitioner, Mr. E.Veda Bagath Singh, Learned Special Government Pleader, who takes notice for the First Respondent, and Ms. K.Ashwini Devi, Learned Standing Counsel, who takes notice for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The wife of the Petitioner, viz., Suriya, while travelling in an Autorickshaw bearing Registration No. TN 09 BA 9047 died in an accident caused by uprooting of a tree on the road side falling under the control of the Second to Fourth Respondents. Since the representation dated 18.04.2023 made by the Petitioner to the Second to Fourth Respondents seeking compensation did not evoke any response, it has necessitated the filing of this Writ Petition.



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3. Learned Counsel for the Petitioner, relying on the decision of the Hon'ble

Supreme Court of India in *Sanjay Gupta -vs- State of Uttar Pradesh* [(2022) 7

SCC 203] contends that the High Court in the exercise of powers under Article

226 of the Constitution could straightaway award compensation to the victims

or the families of the concerned persons. It is reflected from the facts of the said

case that a Commissioner of Enquiry has been appointed and based on its

report, the Court had determined the compensation amount to the victims. No

report of any such enquiry conducted has been produced by the Petitioner to

extend such benefit in this case. In the decision of this Court in *K.Karthik -vs-*

State of Tamil Nadu (Order dated 04.06.2012 in W.P. No. 20081 of 2007)

quoted by Learned Counsel for the Petitioner, it has been observed that the

facts of that case were undisputed, unlike the present one where no reliable

material to infer that the death of the said Suriya has been actually caused by

the uprooting of the tree under the control of the Second to Fourth Respondents

has been produced. There is also nothing to show that the Petitioner was

married to the said Suriya and there are no other legal heirs of that deceased,

who are entitled to claim compensation.

4. Having due regard to the disputable questions of fact relating to violation

of human rights arise in the matter, proper investigation has to be conducted



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and evidence of witnesses would also have to be recorded, which cannot be effectively carried out in summary proceedings under Article 226 of the Constitution. As such, it would be expedient to secure the ends of justice by invoking Section 12(a) of the Protection of Human Rights Act, 1993, as amended by Act 43 of 2006 (hereinafter referred to as 'the Act' for short), which has come into force with effect from 23.11.2006, read with Section 29 of the Act by requiring the State Human Rights Commission, Tamil Nadu to enquire into the complaint of violation of human rights raised by the Petitioner after issuing due notice and hearing all parties concerned following the prescribed procedure under the Act and depending upon its outcome, further action shall be taken in accordance with law.

5. It is also made clear that in view of the decision of the Hon'ble Supreme Court of India in *Paramjit Kaur -vs- State of Punjab* [(1992) 2 SCC 131] that the bar of the period of one year for the State Human Rights Commission to take cognizance of the matters under Section 36(2) of the Act would not be applicable where it is referred by the Court to the Human Rights Commission and the present Writ Petition, which has been immediately filed on 02.08.2023 in respect of the accident said to have taken place on 04.03.2023, has been pending in this Court thereafter, the State Human Rights Commission shall not



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be inhibited to decide the matter on merits without referring to the question of limitation in this case.

6. It is needless to clarify here that no view has been expressed by this Court on the merits of the controversy involved and the State Human Rights Commission shall determine the claim for compensation with reference to the pleadings and evidence adduced by the contesting parties in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

27.11.2023

Index: Yes/No

NCC: Yes/No

Note: (i) Issue order copy by 05.06.2024.

(ii) Registry is directed to send a copy of the entire records of the Writ Petition to the State Human Rights Commission along with this order.

vjt



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To

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
3. The Superintending Engineer,
Parks Department,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
4. The Executive Engineer,
Greater Chennai Corporation Zone – 10,
No. 64, N.S.K.Salai,
Kodambakkam,
Chennai – 600 024.

Copy to

The Secretary,
Tamil Nadu State Human Rights Commission,
143, P.S.Kumararaja Salai (Greenways Road),
Raja Annamalai Puram,
Chennai – 600 028.



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P.D. AUDIKESAVALU, J.

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