



W.P.No.29809 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29809 of 2019

U.Mayavel

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Education,
Fort.St.George,
Chennai – 9.
- 2.The Collector,
Villupuram District,
Villupuram.
- 3.The Chief Educational Officer,
Combined building,
Villupuram.
- 4.The Inspector of Police,
Tiruvonnainallur Police Station,
Villupuram District.
- 5.The Management,
Bonne Nehru Higher Secondary School,
Tiruvonnainallur,
Thirukoilur Taluk,
Villupuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Mandamus directing the respondents 1 to 4 to take stringent action against the fifth respondent School management and consequently direct the respondents 1 to 5 jointly and severally to pay a compensation of Rs.1,00,00,000 (Rupees One Crore only) to the petitioner for death of his son namely Mukunthan aged about 7 years studied second standard in the fifth respondent school within a time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.A.V.Raja
For Respondents : Mr.U.Baranidaran for R1 to R4
Additional Government Pleader
Mr.UB.Balavijayan for R5

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 to 4 to take stringent action against the fifth respondent School management and consequently direct the respondents 1 to 5 to jointly and severally pay a compensation of Rs.1,00,00,000 (Rupees One Crore only) to the petitioner for the death of his son namely Mukunthan aged about 7 years studied second standard in the fifth respondent School within a time to be stipulated by this Court.



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2.The case of the petitioner is that the petitioner's son was studying 2nd Standard in the fifth respondent School and on 01.06.2019, when he returned from School the driver of the bus moved the bus forward without verifying that the student was getting down from the bus or not and the petitioner's son was pushed on the ground and was crushed under the wheels and was killed on the spot. In this regard, a case in Crime No.366 of 2019 was registered on the file of the fourth respondent on 01.06.2019 for the offences punishable under Sections 279 and 304 (A) of IPC altered to under Sections 366, 279 and 304 (A) of IPC. Thereafter, the petitioner made representation to the official respondents to take stringent action as against the fifth respondent Management and against the offender. Since no action was taken and since compensation also was not paid, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner has already filed claim petition in M.C.O.P.No.789 of 2019 before the competent Motor Accidents Claims Tribunal, however, the same was dismissed for non prosecution. Hence, this Court may grant liberty to the petitioner to restore the said M.C.O.P. case and



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direct the Educational Authorities to conduct enquiry and to pass appropriate orders as against the fifth respondent Management.

4.The learned counsel appearing for the fifth respondent submitted that already a criminal case has been registered as against the fifth respondent and when the fifth respondent approached this Court for grant of anticipatory bail, this Court granted anticipatory bail on condition to pay a sum of Rs.50,000/- to the petitioner and further submitted that already the official respondents issued show cause notice, however, enquiry has not yet been concluded.

5.The learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that enquiry will be completed by the competent person, as expeditiously as possible.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.Admittedly, the petitioner's son died on the spot while he was getting down from the bus. The petitioner has already filed claim



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petition in M.C.O.P.No.789 of 2019 before the competent Motor Accidents Claims Tribunal, however, the same was dismissed for non prosecution. Hence, this Court grants liberty to the petitioner to restore M.C.O.P.No.789 of 2019 for appropriate compensation.

8.It appears that when the fifth respondent approached this Court for grant of anticipatory bail, this Court granted anticipatory bail on condition to pay a sum of Rs.50,000/- to the petitioner. Apart from the said amount, this Court directs the fifth respondent to pay a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, for the negligence of the driver of the fifth respondent, as vicarious liability, since the petitioner is entitled for no fault liability.

9.The writ petition is accordingly disposed of. No costs.

28.03.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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M.DHANDAPANI,J.
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To

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