



W.A.Nos.531 of 2020 & 3292 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HON'BLE MS.JUSTICE V.M.VELUMANI

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

W.A.Nos.531 of 2020 & 3292 of 2019 and
C.M.P.No.21000 of 2019

[W.A.No.531 of 2020]

Anjalidevi

.. Appellant
vs

1. The Correspondent
S.K.D.Nursery & Primary School
Sozhiyasorkulam Village
Alagrammam Post, Tindivanam Taluk.
 2. The Chief Educational Officer
Villupuram.
 3. The District Education Officer
Tindivanam.
 4. The District Elementary Educational Officer
Tindivanam.
 5. The Regional Transport Officer, Tindivanam.
 6. The Joint Director
Elementary Education
DPI Campus, College Road
Chennai – 6.
- .. Respondents



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[W.A.No.3292 of 2019]

1. The Chief Educational Officer
Villupuram.
2. The District Education Officer
Tindivanam.
3. The District Elementary Educational Officer
Tindivanam.
4. The Joint Director
Elementary Education
DPI Campus, College Road
Chennai - 6 .. Appellants

VS

1. Anjalidevi
2. The Correspondent
S.K.D.Nursery & Primary School
Sozhiyasorkulam Village
Alagrammam Post, Tindivanam Taluk.
3. The Regional Transport Officer
Tindivanam. .. Respondents

Common Prayer: Appeal under Clause 15 of Letters Patent against the order dated 25.06.2019 in W.P.No.41 of 2018

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For the Appellant in
W.A.No.531 of 2020

Mr.N.Suresh

For the Appellants in
W.A.No.3292 of 2019

Mr.E.Vijay Anand
Additional Government Pleader

For the Respondents in
W.A.No.531 of 2020

Ms.P.Prema
Mr.S.Silambu Selvan
for respondent 1

Mr.E.Vijay Anand
Additional Government Pleader
for respondents 2 to 6

For the Respondents in
W.A.No.3292 of 2019

Mr.N.Suresh
for respondent 1

Mr.S.Silambu Selvan
for respondent 2

COMMON JUDGMENT

(Made by V. LAKSHMINARAYANAN, J.)

W.A.Nos.531 of 2020 and 3292 of 2019 arises against the common order dated 25.06.2019 passed in W.P.No.41 of 2018.

2. Here is an unfortunate case where the appellant in W.A.No.531 of 2020, Anjalidevi lost her three year old daughter. The child was studying in the S.K.D Nursery and Primary School at Tindivanam. On 08.11.2007,



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around 05.00 pm, the daughter of the petitioner, by name Yuvasri, studying in L.K.G standard, was returning to her home in the school van. The van belongs to the first respondent school. The undisputed facts are that the van stopped at the Convent Street. There was no person to take the child from the van and to handover to the parents. After the child has been dropped off from the van and was walking towards her home, the van dashed against the child resulting in the death of the petitioner's only daughter. A Police complaint was given in Crime No.799 of 2017 on 08.11.2017 before the Mailam Police Station under Sections 279 & 304(A) of the Indian Penal Code.

3. It was the case of the appellant in W.A.No.531 of 2020 that the guidelines of the Supreme Court in *M.C.Mehta Vs. Union of India*, in its verdict dated 16.11.2017, has not been followed. Apart from that, it is a specific case where the school as well as the State Respondents did not comply with the Tamil Nadu Motor Vehicle (Regulation and Control of School Buses) Special Rules of 2012 dated 13.09.2012. It is a specific case



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that as per Rule 5, every bus should have an attendant and the attendant should hand over the child to the parent or authorized person at the alighting point. Since the child died on account of the accident and also since it was the case of infraction of the Rules, the petitioner approached this Court for a direction to direct the respondents 2 to 4, who are the appellants in W.A.No.3292 of 2019, to cancel the recognition granted to the first respondent School and also to direct the cancellation of the certificate of registration issued to the school van bearing No.TN 01 Y 9082 and to pay compensation of Rs.25 lakhs for dereliction of duty.

4. We have to point out here that pending the proceedings, the appellant and her husband had approached the Motor Vehicles Claims Tribunal on the file of the Special District Judge, Villupuram in M.C.O.P.No.63 of 2018. This matter was referred to Lok Adalat and the same was taken on file as Lok Adalat Case No.67 of 2019. On 20.02.2019, the matter ended in Lok Adalat award, granting compensation to the petitioner Angalidevi as well as to her husband in equal terms of



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Rs.3,75,000/-.

5. The learned Single Judge found that action had been taken by the Regional Transport Officer against the driver under Section 19 of the Tamil Nadu Motor Vehicles Rules and the license of the driver was temporarily suspended for a period of six months from 09.01.2018 to 08.07.2018. Insofar as the failure to constitute a Committee, the first respondent School had admitted that no such Committee had been constituted. He also gave a finding that the appellants in W.A.No.3292 of 2019, namely the State Authorities for school administration also did not monitor the failure of the school to constitute such a Committee. He found that even after the direction given by the Court, the respondents did not take any steps to implement the Rules with respect of the first respondent school or other schools under their jurisdiction. Therefore, he found that the appellants in W.A.No.3292 of 2019 has negligence in performance of their duties and ordered them to pay a sum of Rs.10,000/- each to the appellant in



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W.A.No.531 of 2020 within a period of four months. Against such order, the two appeals have been filed.

6. The first appeal is at the interest of the State respondents 2 to 4 before the learned Single Judge. According to them, instructions have been issued by the appellants to all the schools concerned to form a School Committee in terms of the Tamil Nadu Vehicle (Regulation and Control of School Buses) Special Rules of 2012. They would further plea that there is no negligence or dereliction on their part and when there is a failure on the part of the Institution to constitute a Committee, they cannot be found to be negligent. They would further contend that, since proper instructions had been given, the imposition of cost of Rs.10,000/- on each of the appellants is erroneous and requires interference. Against the portion where the learned Judge did not direct the cancellation of recognition, the writ appellant has filed an appeal, i.e., W.A.No.531 of 2020.



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7. We heard Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the appellants in W.A.No.3292 of 2019, Mr.N.Suresh, learned counsel appearing for the appellant in W.A.No.531 of 2020 and Mr.S.Silambu Selvan, learned counsel appearing for the School.

8. We have gone through the affidavit, counter, the order of the learned Single Judge and we have applied to the facts before us.

9. Mr.E.Vijay Anand, learned Additional Government Pleader would contend that the negligence have to be proved and this can be done so only in a properly constituted civil proceedings. Imposing cost of Rs.10,000/- on each of the appellants is unwarranted. He also relied upon the following judgments:

(i) M.S.Grewal and Anr. vs Deep Chand Sood and Ors.

[2001 8 SCC 151]

(ii) P.N.Kanagaraj vs State of Tamil Nadu and Ors.

[2008 SCC Online Madras 851]

(iii) Sanjay Gupta and Ors. Vs State of Uttar Pradesh



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10. We are not persuaded by any of the authorities by simple reasons, the appellant has not approached this Court for the purpose of fixation of compensation.

11. As pointed out above, that was the matter which was dealt with by the Lok Adalat and it has ended in an award. The question of finding the driver negligent does not arise out because the Regional Transport Officer, in fact, found him to be negligent and has suspended his license for a period of six months. Apart from this, the facts are not disputed, a small child, aged three years had been dropped from quite distance from her house and the bus which dropped her ran over her. It is a case of *res ipsa loquitor*. There are no other circumstances which are pleaded or brought before this Court that the accident did not happen due to the negligence of the van driver.

12. The Tamil Nadu Government, as early as in 2012, had shown



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special care for awarding such accidents by framing the Tamil Nadu Motor Vehicles (Regulations and Control of School Buses) Special Rules of 2012. Had Rule 5 and Rule 10 be implemented in law and spirit, this accident might not have occurred at all. It is not like in the mouth of the State respondents to state that they have written letters to the school to constitute a Committee and their duty stopped by writing such letters. The statute relating to Educational Institutions empowers the appellants in W.A.No.3292 of 2019 to take action against the Institutions which do not follow the law. From 2012 till the accident took place in 2017, a Committee had not been formed. Five years is a long time for the appellants to have taken action. On account of their failure to act, the life of a child has been snuffed out. Therefore, we do not find any error with the order of the learned Single Judge.

13. The State Government is directed to pay a sum of Rs.50,000/- to the appellant in W.A.No.531 of 2020. This is an *ex gratia* payment and the payment made under the Motor Vehicles Act shall not be taken into



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consideration. This amount is being paid on account of the dereliction of the duty by the appellants in W.A.No.3292 of 2019 and not as a measure of compensation.

14. At this stage, we have to bring to the notice the fair stand taken by Mr.S.Silambu Selvan, the learned counsel for the School. He took instructions from his client and reported before this Court that, in addition to the compensation paid in Lok Adalat award, a further sum of Rs.2,00,000/- will be paid by the School to the appellant in W.A.No.531 of 2020.

15. Pursuant to our orders, today (i.e., on 17.04.2023), Mr.S.Silambu Selvan, learned counsel for the School handed over the demand draft for a



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sum of Rs.2 lakhs, drawn on the State Bank of India in demand draft No.639409 dated 13.04.2023. This is in compliance with his undertakings in paragraph 14 of this order. Consequently, W.A.No.531 of 2020 is dismissed.

16. As far as the appeal filed by the Government is concerned, since we have found the dereliction of duty on the part of the appellants in W.A.No.3292 of 2019, we are not inclined to interfere with the orders of the learned Single Judge. Accordingly, W.A.No.3292 of 2019 is dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

(VMV, J.) (VLN, J.)
17.04.2023

Index : Yes/No
Neutral Citation: Yes/No

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V.M.VELUMANI, J,
and
V. LAKSHMINARAYANAN, J
(drm)

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