



W.P.No.34971 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34971 of 2022
and W.M.P. No.34404 of 2022

B.Kanimozhi

... Petitioner

Vs

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai 600 009.

2.The Director of Medical Education and
Family Welfare Department,
Kilpauk, Chennai.

3.The City Medical Officer,
Additional Director,
Medical Services Department,
Greater Chennai Corporation,
Chennai 600 003.

4.Kalpana

5.Thendral

...Respondents

Petition filed under Article 226 of the Constitution of India, for
issuance of Writ of Mandamus, directing the third respondent to pay a sum



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of Rs.50,00,000/- as damages to the petitioner due to deliberate negligence and wanton carelessness on the part of the fifth respondent in the light of order dated 25.01.2022 made in W.P. No.22349 of 2018.

For Petitioner : Mr.K.S.Govinda Prasad

For Respondents : Mr.O.Baranidharan,
Additional Government Pleader
for R1 and R2

Ms.P.T.Rama Devi for R3

ORDER

By consent of both parties, the Writ Petition is taken up for final hearing at the admission stage itself.

2. This petition has been filed seeking a direction to the third respondent to pay a sum of Rs.50,00,000/- as damages to the petitioner due to deliberate negligence and wanton carelessness on the part of the fifth respondent in the light of order dated 25.01.2022 made in W.P. No.22349 of 2018.

3. The case of the petitioners is that she is a house wife and her



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husband is a coolie by profession and she has two children and therefore, she underwent family planning operation while giving birth to the second child. However, the petitioner now become pregnant. Therefore, the petitioner made a representation to the respondents to pay a sum of Rs.50,00,000/- as damages for deliberate negligence and carelessness on the part of the 4th respondent. Since the same is not considered and hence, the present writ petition has filed.

4. The learned counsel for the petitioner submitted that in similar situation, this Court passed an order directing the respondents therein to pay a sum of Rs.3,00,000/- to the mother, who delivered a baby even after the birth control operation. The said order will applicable in the present case also. Therefore, this Court may direct the respondents to pay the suitable compensation to the petitioner within the stipulated time as fixed by this Court.

5. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the respondents therein has filed writ appeal before this Court and the said order has been stayed by this Court.



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However, in the event of failure of the operation, the State Government will pay a sum of Rs.60,000/- as compensation to the persons.

6. Heard the learned counsel on either side and perused the materials available on record.

7. In such view of the matter, this Court directs the 3rd respondent to pay a sum of Rs.60,000/- (Rupees Sixty thousand only) to the petitioner in terms of G.O.Ms.No.173, dated 31.05.2022, Health & Family Welfare Department, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the petitioner to work out her remedy before the civil Court for enhancement of compensation in the manner known to law.

28.04.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No

To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai 600 009.
- 2.The Director of Medical Education and
Family Welfare Department,
Kilpauk, Chennai.



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M.DHANDAPANI,J.

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