



W.A.Nos.4013 of 2019 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 31.07.2023

DELIVERED ON: 05.09.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.4013, 4226, 4193, 4237, 4208, 4207, 4210, 4230, 4118, 4117,
4233, 4229, 4060, 4069, 4059, 4092, 4061, 4074, 4093, 4054, 4053,
4056, 4240, 4246, 4267, 4248, 4265, 4215, 4218, 4242, 4227,
4243 of 2019, W.A.Nos.1336 to 1351, 1361 to 1376 of 2018,
W.A.Nos.818, 816, 810, 801, 811, 800, 815, 793, 813, 805, 797, 795,
807, 812, 808, 802, 817, 823, 794, 806, 799, 796, 792, 803, 824, 809,
821, 819, 814, 804, 820, 822 of 2020
and CMP.Nos.26304, 26307, 26101, 26103, 26377, 26379, 26209,
26211, 26197, 26202, 26219, 26222, 26335, 26347, 25735, 25736,
25731, 25732, 26368, 26369, 26330, 26331, 25446, 25450, 25487,
25482, 25555, 25147, 25444, 25445, 25547, 25548, 25454, 25455,
25497, 25496, 25550, 25552, 25425, 25428, 25417, 25419, 25433,
25435, 26420, 26478, 26477, 26606, 26608, 26492, 26483, 26598,
26600, 26250, 26251, 26269, 26273, 26453, 26452, 26325, 26320,
26455, 26454, 578, 630 of 2019, CMP.Nos.10439, 10438, 10431,
10429, 10420, 10417, 10396, 10395, 10422, 10419, 10390, 10388,
10434, 10430, 10381, 10379, 10426, 10425, 10405, 10408, 10391,
10386, 10385, 10411, 10410, 10423, 10421, 10413, 10412, 10400,
10397, 10437, 10436, 10456, 10454, 10382, 10380, 10407, 10404,
10394, 10392, 10393, 10387, 10375, 10374, 10399, 10398, 10455,
10457, 10415, 10418, 10446, 10444, 10442, 10441, 10432, 10428,
10406, 10403, 10447, 10445, 10452, 10450 of 2020



W.A.Nos.4013 of 2019 etc., batch

W.A.No.4013 of 2019

WEB COPY

V.Anandakumar

.. Appellant

Vs.

1.The District Collector,
Office of the District Collector,
Thiruvallur District.

2.State of Tamil Nadu,
Rep. by the Chief Secretary,
Fort St.George, Chennai-9.

3.Jaishankar

4.Munirajammal

.. Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the Common Order dated 28.07.2017 made in W.P.Nos.6609 to 6640 of 2010.

For Appellants : Mr.V.Karthikeyan,
for Mr.S.Joel

For Respondents : Mr.R.Shunmugasundaram,
Advocate General
assisted by Mr.P.Muthukumar,
Special Government Pleader
Mr.U.M.Ravichandran,
Special Government Pleader for R1 & R2

Mr.S.Abubucker Sidhic for R3

Mr.S.Udayakumar for R4



W.A.Nos.4013 of 2019 etc., batch

COMMON JUDGMENT

D.KRISHNAKUMAR, J.

The issue involved in these writ appeals are one and the same and as such, they are disposed of by this common judgment. All the parties to the writ petitions viz., victim, State as well as the private respondent, aggrieved over the quantum of compensation fixed by the Writ Court vide common order dated 28.07.2017 made in W.P.Nos.6609 to 6640 of 2010, have filed these writ appeals. For the sake of brevity, the array of parties in W.A.No.4013 of 2019 is adopted.

2. This is an unfortunate fire accident case, wherein on the fateful date of occurrence on 16.10.2009, on the eve of Diwali Festival, there were festive activities in the town of Pallipat, Thiruvallur District in Tamil Nadu and more than 30 people had been in busy commercial activity of purchasing crackers from the crackers shop located at Door No.94, Sholinghur Road, Pallipet, where a retail / wholesale crackers shop had been located by the third respondent therein/ appellant herein, namely Anandakumar. At about 6.30 p.m. on the said fateful day, a huge explosion followed by heavy fire broken in the entire cracker shop, with



W.A.Nos.4013 of 2019 etc., batch

the result 32 innocent lives were gutted to flames.

WEB COPY

3. The State Government, though claimed that it was an accident that took place due to the unlicensed cracker shop run by the appellant in a place belonging to the third respondent herein, namely Jaishankar, and it is not because of any alleged negligent activity on the part of the State or its instrumentalities, as well as officials and staff, had come forward to pay a solatium of Rs.1 Lakh each to the next kith and kin of all the 32 victims, from the Chief Minister Relief Fund. Since 27 out of the 32 victims belong to the State of Andhra Pradesh, it is also informed that the State of Andhra Pradesh had paid a sum of Rs.1 Lakh as solatium to each of the 27 victims belonging to the said State. Under this background, the legal heirs or next kith and kin of all the 32 victims, after having failed to get any adequate compensation from the State Government, have filed the writ petitions, claiming compensation to the tune of Rs.25 Lakhs each.

4. The Writ Court, taking into consideration the serious nature of



W.A.Nos.4013 of 2019 etc., batch

the occurrence, submissions and rival contentions put forward on either side, statutory rules, stand taken by the State Government, all other relevant factors and by relying upon the decision of the Hon'ble Supreme Court in *Sarla Varma v. Delhi Transport Corporation [2009 (2) TNMAC 1 SC]* has adopted the multiplier method for determining the quantum of compensation in accordance with age and various other decisions of the Hon'ble Supreme Court with regard to the concept of "Contributory Negligence", had concluded that negligence is on the part of both the State Machinery as well as the appellant. Since the State has been found fault for its dereliction of duty, certainly the State's responsibility in paying the compensation would be justifiable for atleast 50% and for the reckless and unjustifiable act on the part of the appellant, he should shoulder the responsibility of remaining 50%. Aggrieved by the quantum of compensation awarded by the writ Court, vide order dated 28.07.2017, these writ appeals are filed.

5. Heard the learned counsel for the parties and perused the materials available on record.



W.A.Nos.4013 of 2019 etc., batch

WEB COPY

6. When these writ appeals were taken up for hearing on 31.07.2023, though reliance has been made on various decisions of the Hon'ble Supreme Court, the learned counsel appearing for all the respective parties has stated that the order of the Writ Court warrants interference for the reason that the multiplier method adopted in the light of the decision in *Sarla Varma case* (cited supra) to determine the quantum of compensation is contrary to the decision of the Hon'ble Supreme Court in *Sanjay Gupta v. State of Uttar Pradesh through its Chief Secretary and Others [(2022) 15 SCR 137]*, wherein a One Man Commission has been appointed by the Hon'ble Supreme Court in the said decision. Therefore, on the same lines, the learned counsel appearing for the parties have unanimously consented for referring the matter to a One Man Commission to determine the reasonable compensation to be paid to the families/legal heirs of 32 victims. This Court also expresses its deep concern to the families of the victims who died in the tragic fire accident that occurred on 16.10.2009 and even after lapse of nearly 14 years, the compensation to be paid to the families /



W.A.Nos.4013 of 2019 etc., batch

legal heirs of the victims has not been determined and at this distant point of time, if we relegate the parties concerned to approach the Civil Court, the same would cause furthermore delay in determining the quantum of compensation.

7. In the light of the above facts and circumstances and taking into consideration the unanimous consent expressed by the parties, we are inclined to the pass the following order,

(i) The common order dated 28.07.2017 made in W.P.Nos.6609 to 6640 of 2010 is set aside.

(ii) Justice Mr.V.Parthiban, Judge (Retd.), High Court Madras shall be appointed as a One Man Commission to decide the reasonable compensation to be paid to the families of 32 victims.

(iii) The Government shall pass necessary Government Order for the appointment of a One Man Commission as aforesaid, within a period of four weeks from the date of receipt of a copy of this order.

(iv) The remuneration shall be paid by the Government in consultation with the Hon'ble Mr.Justice V.Parthiban, Judge (Retd.), High Court, Madras.

(v) The Government shall provide necessary staff and



W.A.Nos.4013 of 2019 etc., batch

infrastructure facilities to the Commission to discharge its duties with regard to payment of compensation to the families of the 32 victims.

(vi) If any legal assistance is required, the Commission shall make a request to the Government for getting approval for nominating a Lawyer to assist the Commission.

(vii) The parties are at liberty to raise/urge all the points and produce necessary documentary evidences before the Commission.

(viii) All the parties shall render necessary cooperation to the One Man Commission to decide the issue expeditiously and to enable him to pass final orders.

(ix) Since the issue has been pending for almost 14 years, the One Man Commission shall conduct the proceedings as far as possible on day- today basis and pass final orders within a period of six months from the date of his assuming office.

(x) As an interim measure, an amount of Rs.5,00,000/- (Rupees Five Lakhs Only) shall be paid to each of the victims' family, till the total quantum of compensation is determined by the Commission.

(xi) It is informed before this Court that the Government of Tamil Nadu has paid Rs.1 Lakh each to all 32 victim families and the Government of Andhra Pradesh has paid Rs.1 Lakh to the families of 27 victims, who belong to



W.A.Nos.4013 of 2019 etc., batch

Andhra Pradesh. Therefore, Government of Tamil Nadu is hereby directed to pay Rs.3 Lakhs each to the families of 27 victims, from the Chief Minister's Relief Fund. Insofar as the other 5 victims families are concerned, the Government of Tamil Nadu is directed to pay Rs.4 Lakh each from the Chief Minister's Relief Fund. It is made clear that the said amount shall be paid subject to the final compensation amount to be determined by the Commission and if any excess amount is paid, the same shall be recovered from the parties concerned. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

(xii) The Commission shall submit a report to the Government and on such receipt of report, the Government shall take further action for payment of compensation to the victims.

8. These Writ Appeals are disposed of with the above directions.

No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.,] [P.B.B., J.]
05.09.2023

Index:yes/no
Internet:yes
Jvm



WEB COPY



W.A.Nos.4013 of 2019 etc., batch

**D.KRISHNAKUMAR, J.,
&
P.B.BALAJI, J.**

Jvm

To

1.The District Collector,
Office of the District Collector,
Thiruvallur District.

2.The Chief Secretary,
State of Tamil Nadu,
Fort St.George, Chennai-9.

Copy to:

The Hon'ble Mr.Justice V.Parthiban,
Judge (Retd.), High Court of Madras,
No.5069, Z Block, 12th Street,
Anna Nagar (West)., Chennai-40.

**Common Judgment in
W.A.Nos.4013 of 2019 etc., batch**

05.09.2023