



W.P.(MD) No.3474 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.3474 of 2020

M.Ramesh

... Petitioner

/vs./

- 1.The State of Tamil Nadu,
represented by its Secretary to Government,
Home Department,
Secretariat,
St.George Fort,
Chennai 600 009.
- 2.The State of Tamil Nadu,
represented by the Principal Secretary,
Health and Family Welfare Department (B2),
Secretariat, St.George Fort,
Chennai 600 009.
- 3.The Director,
The Directorate of Health Department,
The Medical and Rural Health Services,
Chennai 600 006.
- 4.The Joint Director of Health Department,
Health Services,



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Public Health Department Office,
Sivakasi,
Virudhunagar District 626 124.

5.The Dean,
Government Rajaji Hospital,
Madurai 625 002.

6.The District Collector,
District Collectorate Office,
Virudhunagar 626 002.

7.The District Superintendent of Police,
District Superintendent of Police Office,
Virudhunagar 626 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide adequate compensation to the petitioner for the medical negligence causing death of the petitioner's pregnant wife within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For R1 to R6 : Mr.T.Amjadkhan
Government Advocate

For R7 : Mr.M.Vaikkam Karunanithi
Government Advocate



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ORDER

The above writ petition has been filed for issue of a Mandamus to the respondents to provide adequate compensation to the petitioner for the medical negligence, which has caused the death of his pregnant wife.

2.It is the case of the petitioner that the petitioner's wife, who was working as Staff Nurse in Velammal Medical College Hospital and Research Institute, had developed seizures and was admitted in the Primary Health Centre, Coonoor for delivery on 11.10.2019. The time for delivery was fixed at 05.30 pm. and at 05.30 pm., the surgery had also commenced. After some time, he was informed that his wife had delivered girl baby and both the mother and daughter are safe. He would submit that thereafter he was asked by the Doctor, who attended his wife, to take her to the nearest clinic run by her husband for getting certain medicines for his wife. The petitioner had also taken her there and when he returned he was informed that his wife has to be shifted to the Government Rajaji Hospital, Madurai. She was thereafter taken by the Ambulance at 09.25 pm., and admitted in the Rajaji Hospital. However, they reported that his wife had passed away.



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3. According to the petitioner, the death occurred only on account of the medical negligence of the Doctor and the team. The petitioner would submit that he had made several representations to the respondents for compensation, which have not been taken into account and hence, left with no other alternative, he has preferred the above writ petition.

4. A detailed counter has been filed by the fourth respondent, in which they had admitted the fact that the petitioner's wife had been admitted for delivery and that she has undergone surgery. However, it is stated that after the birth of the child, the deceased, Ramyakrishnan had developed seizures and she was given intensive treatment with the help of a ventilator in the operation room. The fact was informed to the Block Medical Officer, Kunnur, who, in turn, had escalated the matter to the Joint Director of Health Services, Virudhunagar District and the Deputy Director of Health Services, Sivakasi had directed to provide high level treatment to the petitioner's wife and on instructions, she was moved from the Government Primary Health Centre, Kunnur to the Government Rajaji Hospital, Madurai at around 07.40 pm. She was given treatment, but however, she died while she has been treated on 11.10.2019 at 10.00 pm.,



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5.The petitioner had made a representation alleging action to be taken against Dr.Pushpalatha. It is informed that an enquiry was held on the direction of the Director of Public Health and Preventive Medicine, Chennai into the death of Ramyakrishnan, wife of the petitioner herein. The enquiry report was also submitted, in which it has been noted that the cause of death could be stated to be amniotic fluid embolism and the other causes could be the epileptics, hypoxic ischemic encephalopathy, cardio pulmonary arrest, intrapartum eclampsia.

6.The postmortem conducted revealed that they were unable to give a definite opinion about the cause of death. The respondents would submit that there was no medical negligence, as the petitioner's wife had received proper treatment and had delivered the baby girl, who weighed 3.1 kg at the time of birth. It was post the delivery that she had developed seizures, steps were also taken to ensure that she received prompt medical attention and therefore, no negligence can be attributed to the Doctors.



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7.The learned Government Advocate for the seventh respondent had also argued on the same lines and on hearing the arguments on both side, it appears that the statement made by one is refuted by the other and the same has to be proved by letting in evidence, which cannot be done in a Writ Court. Therefore, the Writ Petition is dismissed giving liberty to the petitioner to approach the appropriate forum for redressal and on such application being filed, the same shall not be rejected on the ground of limitation, as the period spent before this Court shall be condoned while calculating the period of limitation. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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14.03.2023

To

1.The Secretary to Government,
Home Department,
Secretariat,
St.George Fort,
Chennai 600 009.

2.The Principal Secretary,
Health and Family Welfare Department (B2),

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- 3.The Director,
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- 4.The Joint Director of Health Department,
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P.T.ASHA, J.

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