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Writ Petition (MD)No.4342 of 2021



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.07.2023

DELIVERED ON : 16.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Writ Petition (MD)No.4342 of 2021

and

W.M.P.(MD)No.3531 of 2021

A.Mano

... Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Department of Home,
Secretariat, Chennai.

2.The District Collector,
Trichy.

3.The Superintendent of Police,
Trichy.

4.The Chairman,
District Legal Services Authority,
Trichy.

5.The Inspector of Police,
Siruganur Police Station,
Trichy District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to



provide adequate compensation for the death of the petitioner's husband Arockiyadoss that took place on 09.01.2021 and further direct the fifth respondent to complete the investigation in the Crime No.34 of 2021 within reasonable time.

For Petitioner : Mr.P.Ganapathi Subramanian
For Respondents 1 to 5 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The petitioner has filed this writ petition in a nature of Writ of Mandamus, directing the respondents to provide adequate compensation for the death of the petitioner's husband Arockiyadoss that took place on 09.01.2021 and further direct the fifth respondent to complete the investigation in the Crime No.34 of 2021 within reasonable time.

2.According to the petitioner, her husband Arockiyadoss met with an accident on 09.01.2021 at about 06.30 p.m. On the date of the occurrence, when the husband of the petitioner went to meet his sister Selinal Merry on Thachankurichi to Kumulur road, by walk, an unidentified vehicle hit the husband and crossed away. One Paulraj, who happened to be there, engaged the service of 108 ambulance and took her husband to Lalgudi Government Hospital and then to Government Head Quarters hospital, Trichy and he died on 10.01.2021, due to the injuries all over his body. The above said accident



was taken place within the jurisdiction of Siruganur police and the police registered a case in Crime No.34 of 2021 for the offences under Sections 279 and 337 of IPC and altered into Section 304A of IPC. In spite of lapse of one month, the fifth respondent failed to trace out the vehicle. At the time of accident, the petitioners husband was employed as Mason and earning a sum of Rs.25,000/- and he was aged about 33 years and the petitioner's in laws are blind and she has two minor children. All are depending upon the income of the deceased. There is no progress in the investigation in Crime No.34 of 2021 on the file of the fifth respondent. The petitioner gave a representation to the Principal Secretary and other Revenue Officials and to the Chairman, District Legal Service Authority but till now no action was taken. Therefore, he filed this writ petition for claiming compensation of Rs.5,00,000/- for the death of petitioners husband.

3.No counter was filed on the side of the respondents.

4.The learned counsel appearing for the petitioner would contend that the husband of the petitioner died in a road accident and offending vehicle hit against the petitioner and ran away and so far, not traced out the vehicle. The deceased alone was the earning member of his family. This petitioner and her



in-laws and her two children were depending upon the income of the deceased and now they are struggling for their livelihood and the fifth respondent also had not taken any steps to find out the vehicle. The petitioner sent a representation dated 16.02.2021 and the same was not considered by the respondents and hence, he filed this writ petition for claiming compensation of Rs.5,00,000/- and to expedite the investigation progress.

5.The learned Government Advocate appearing for the respondents would contend that the fifth respondent had registered FIR in Crime No.34 of 2021 for the accident and still they are searching the offending vehicle but the same was not traceable. In the meantime, the petitioner has filed the present petition.

6.This Court heard both sides and perused the materials on record.

7.It is admitted fact that the deceased died due to the accident but the offending vehicle was not traced out. According to the petitioner, the deceased was the sole bread winner of his family. The petitioner and other family members are depending upon the income of the deceased. After the demise of the deceased, they are struggling for the livelihood. Already she sent a



representation to the respondents for awarding compensation. Therefore, the respondents have to award compensation.

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8.The learned counsel appearing for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Suresh and another v. State of Haryana*** reported in ***(2015) 2 Supreme Court Cases 227***, wherein the Hon'ble Supreme Court held in paragraph no.19 as follows:

“19.In the present case, the impugned judgment shows that the defacto complainant, P.W.2 Raman Anand, filed Criminal Revision No.1477 of 2004 for compensation to the family members of the deceased Devender Chopra and his Abhishek Chopra. The same has been dismissed by the High Court without any reason. In fact even without such petition, the High Court ought to have awarded compensation. There is no reason as to why the victim's family should not be awarded compensation under Section 357A Cr.P.C., by the State. Thus, we are of the view that the State of Haryana is liable to pay compensation to the family of the deceased. We determine the interim compensation payable for the two deaths to be rupees ten lakhs, without prejudice to any other rights or remedies of the victim's family in any other proceedings.”

9.On careful reading of the judgment, it is clear that this Court can direct the Government to award compensation under Section 357A of Cr.P.C.



10. Section 357A of the Cr.P.C., reads as follows:-

“357-A. Victim Compensation Scheme - (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1)

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case



may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer incharge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.”

11. Therefore, according to Section 357A of Cr.P.C., victim compensation scheme, this case falls under the Section 357A of Cr.P.C. The State Government also framed scheme for victim compensation and the same was notified in Preamble Rules for victim compensation dated November 2013. In this case, since the deceased was died due to accident and no vehicle was identified and it is falling under Section 357A of Cr.P.C. The petitioner also sent a representation to the State and District Legal Services Authority. No action was taken so far. Therefore, it is appropriate to direct the District Legal Services Authority, Trichy to consider the representation of the petitioner dated 16.02.2021 and to award adequate compensation according to law and accordingly ordered. The copy of the representation dated 16.02.2021 and the copy of the order of this Court also to be marked to the Chairman, District Legal Services Authority, Trichy, for taking appropriate action.



12. After the receipt of copy of the complaint and order of this Court, the Chairman, District Legal Service Authority, Trichy has to consider the above said proceedings within a period of two months from the date of receipt of copy of this order. In view of the above direction, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
Mrn

16.08.2023



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To

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- 3.The Superintendent of Police,
Trichy.
- 4.The Chairman,
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Trichy.
- 5.The Inspector of Police,
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Trichy District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

Mrn

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