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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD) No.3721 of 2023

and

W.M.P.(MD)No.3506 of 2023

Sanjeev

... Petitioner

-VS-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department for Home,
Fort. St. George,
Chennai – 600 009.

2.The District Collector cum
District Magistrate,
Madurai District.

3.The Tamil Nadu Legal Service Authority,
Rep. by its Secretary,
Madurai District Court Campus,
Madurai.

4.The Deputy Inspector of Police,
(South Zone), Madurai.

5.The Inspector of Police,
Keerathurai Police Station,
Madurai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to pay a compensation of Rs.5,00,000/- for the death of the petitioner's wife “Mahalakshmi” in the accident.

For Petitioner : Mr.K.P.S. Palanivel Rajan, Senior Counsel
for Mr.K.Prabakaran

For Respondents : Mrs.B.Aasha
Government Advocate

ORDER

This petition is filed for a Writ of Mandamus, directing the respondents 1 to 5, to pay a compensation of Rs.5,00,000/- for the death of the petitioner's wife - Mahalakshmi in an accident.

2. The case of the petitioner is that the petitioner, is the husband of one Mahalakshmi. While so, on 10.08.2021, the vehicle being the Hero Honda motorcyle, bearing Registration No.TN-64-F-1778 was driven in a rash and negligent manner and dashed against the petitioner's wife and caused her death. A case is registered in Crime No.71 of 2021 under Sections 279 and 337 of I.P.C.



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Thereafter, it was also altered under Sections 304-A of I.P.C. The preliminary investigation also reveals that there was no insurance policy in respect of the vehicle.

3. It is the contention of the learned counsel for the petitioner that though the petitioner has got a right to file Motor Accident Claims Petition even as against the owner of the vehicle, the petitioner is also entitled for compensation under the Tamil Nadu Victim Compensation Scheme for Women Victims /Survivors of Sexual Assault/Other Crimes, 2018.

4. The learned Senior Counsel taking this Court through the Scheme framed by the Government of Tamil Nadu, in G.O.(Ms.)No.1591, Home (pol.12), dated 24.09.2024, would submit that the Scheme does not exempt any type of crime and if the victim is a woman, then if she survives/then the victim, if she dies, the dependent is entitled to compensation. Reliance is made on Rules 2(b), 2(k), 5 and 6 of the said Rules.



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5. I have considered the said submission made by the learned Senior Counsel and the learned Government Advocate (Criminal Side) on behalf of the respondents and perused the material records of the case.

6. The Scheme also contains a Procedure to be followed for disbursement of compensation and the same is contained in Rules 5 and 6, which are extracted hereunder for ready reference:

“5. Procedure for making application before the TNSLSA or DLSA :- (1) Mandatory Reporting of First Information Reports:- Station House Officer / Superintendent of Police / Deputy Commissioner of Police shall mandatorily share soft / hard copy of FIR immediately after its registration with the Tamil Nadu State Legal Services Authority / District Legal Service Authority in respect of commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B and 498A of the Penal Code (in case of physical injury covered in this Schedule appended to this Scheme), so that the TNSLSA / DLSA can, in deserving cases, may suo-motu initiate preliminary



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verification of facts for the purpose of grant of interim compensation.

(2) An application for the award of interim or final compensation can be filed by the Victim or her dependents or the Station House Officer of the area before Tamil Nadu State Legal Services Authority or District Legal Services Authority as the case may be, it shall be submitted in the Form along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment or recommendation of Court, if the trial is over.

6. Place of filing of application :- The application / recommendation for compensation can be moved either, before the Tamil Nadu State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application / recommendation moved before him (her) as per the Scheme.”



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7. Therefore, it is for the petitioner to make an application and upon the application being made, the same has to be processed first, to obtain a dependent certificate and thereafter, a recommendation and thereafter, the third respondent has to consider the same on merits and pass orders in accordance with law.

8. It can be seen that an application in the due format has now been made pending the Writ Petition, duly enclosing the legal heirship certificate. Therefore, the third respondent shall consider the same and process the same in accordance with law and pass final orders thereon within a period of two months from the date of receipt of copy of the order.

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

20.08.2024

NCC : Yes / No
Index : Yes/ No
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3. The Tamil Nadu Legal Service Authority,
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Madurai District Court Campus,
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4. The Deputy Inspector of Police,
(South Zone), Madurai.
5. The Inspector of Police,
Keerathurai Police Station,
Madurai
6. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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D.BHARATHA CHAKRAVARTHY J.

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W.P.(MD) No.3721 of 2023

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