



W.P(MD)No.17499 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17499 of 2023

Lakshmi

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Divisional Engineer,
Road Development Scheme – 2,
Divisional Engineer Office,
Tenkasi, Tenkasi District.
- 3.The Assistant Divisional Engineer,
Road Development Scheme – 2,
Divisional Engineer Office,
Tenkasi,
Tenkasi District.
- 4.P & C Construction Private Limited,
Door No.87/2A,
Bharathi Salai,
Mugappair West,
Chennai – 600 037.



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5.The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi.

***(R.5 is suo motu impleaded vide
order of this Court dated 20.07.2023)***

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to pay a sum of Rs.10,000/- as compensation for the petitioner's injured husband who sustained 80% disability during the course of work on the basis of the petitioner's representation dated 09.08.2022 within the time stipulated by this Court.

For Petitioner : Mr.C.Rathinavel Pandian

For Respondents : Mr.A.Kannan
Additional Government Pleader
for R.1 to R.3

Mr.A.Balaji for R.4

Mr.A.Albert James
Government Advocate for R.5

ORDER

Heard both sides.

2.The writ petitioner's case is that her husband Murugaiah was employed in the fourth respondent company and that during the course of



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employment he accidentally fell and suffered grievous injuries leading out to Comatose condition. In this regard, Crime No.255 of 2022 was registered on the file of Pavoorchatram Police Station on 09.08.2022. The petitioner relies on the certificate issued by the Medical Board, Head Quarters Hospital, Tenkasi indicating that the petitioner's husband had suffered disability to the tune of 60%. The fourth respondent denied employee employer relationship with Murugaiah. Since the fourth respondent did not come forward to pay any compensation, the present writ petition came to be filed.

3.The fourth respondent has filed counter affidavit and all the allegations made by the petitioner had been denied. The learned counsel appearing for the fourth respondent took me through its contents and called upon this Court to dismiss the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. Since the learned counsel appearing for the petitioner strongly asserted that Murugaiah is in a Coma condition, this Court *suo motu* impleaded the Inspector of Police, Pavoorchatram Police



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Station. Request was made to the fifth respondent to visit the petitioner's home and submit a report. Thiru.M.Balachander, SSI 539, Pavoorchatram is present before this Court. Murugaiah was photographed yesterday and photographs have also produced before this Court. It is seen that Murugaiah is able to converse and also walk. He also stated that Murugaiah was said to have been in a Coma condition for over 15 days and he is not in a position to engage in any gainful employment.

5.Now let me consider as to how the whole occurrence had taken place. On the last occasion, the jurisdictional Police confirmed that Murugaiah was given light and casual work such as waving of flag for diverting traffic. It is not clear as to whether on the occurrence date Murugaiah was employed. Be that as it may, the fact remains Murugaiah fell into a pit dug by the fourth respondent. It is true that Murugaiah had gone near the pit to answer nature's call. He had fallen down.

6.The learned counsel appearing for the fourth respondent would claim that the occurrence spot was at a distance of 350 meters from the



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work spot. It is seen from the materials on record that the pit in question was dug during the course of implementing project work by the fourth respondent. If the pit had been filled up, the occurrence would not have taken place. I have to fasten liability on the fourth respondent. At the same time, Murugaiah also cannot be absolved of negligence. Even according to the petitioner, her husband was engaged in warning passersby and for diverting traffic. Such a person is expected to be aware. By going near the pit to answer nature's call he had courted the occurrence. Murugaiah is also aged about 65 years. He was said to have been engaged in coolie work. Therefore, taking into account the following aspects,

- a) negligence on the part of the fourth respondent in not filling up the pit that was dug
- b) negligence on the part of Murugaiah in courting danger
- c) Age of the claimant

I quantify the compensation payable at Rs.1 Lakh to the petitioner. The said amount shall be remitted in the account of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.



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The petitioner will be entitled to withdraw a sum of Rs.5000/- (Rupees Five Thousand only) per month. I issue such a direction so that there will be some kind of support for the petitioner for the next 20 months. The fourth respondent is also directed to draw a Demand Draft for a sum of Rs.5000/- to be paid as legal fees to Thiru.C.Rathinavel Pandian, learned counsel appearing for the petitioner.

7.This writ petition is disposed of accordingly. There shall be no order as to costs.

01.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

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- 2.The Divisional Engineer,
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G.R.SWAMINATHAN, J.

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