



W.P(MD)No.17161 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.17161 of 2019

N.Santhanam

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Secretariat,
St. George Fort,
Chennai.
- 2.The Secretary,
Geology and Mining Department,
Secretariat,
St. George Fort,
Chennai.
- 3.The Director,
Geology and Mining Department,
Chennai.
- 4.The District Collector,
Karur District,
Karur.
- 5.The Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.
- 6.The Assistant Director,
Geology and Mining Department,
Karur District, Karur.



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7.The Revenue Divisional Officer,
Karur District, Karur.

8.The Tahsildar,
Manmangalm Taluk,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fifth respondent in his proceedings in Letter in Na.Ka.No. 2531/2018/Tha6 dated 11.02.2019 and quash the same and consequently direct the respondents to provide compensation sum of Rs.26,00,000/- (Twenty Six Lakhs) with 9 percent interest for death of petitioner's son namely Muralidaran S/o.Santhanam aged 21 years for negligence on the part of the respondents.

For Petitioner : Mr.S.Gokul Raj

For Respondents : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the fifth respondent dated 11.12.2019 thereby rejecting the claim made by the petitioner seeking compensation for the death of his son for negligence on the part of the respondents.



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2.The petitioner's son Murali, who was aged about 21 years, on 13.08.2017 along with his friends went to Sadasivam Temple for worshipping. It is situated adjacent to the river Kavery at Nerur South Village, Maravapalayam, Karur District. While they were taking bath, the petitioner's son and his friend Ramkumar died due to drowning in the Kavery river, though they knew swimming. The Kavery river is under the control of the fifth respondent and due to illegal sand quarry by exceeding the permitted limit under the Tamil Nadu Mineral Concession Rules, there are huge pits to the depth of 30 to 40 feet which were left as it is at Nerur Village, Karur District. The father of another deceased person one Muneeswaran filed a Public Interest Litigation petition before this Court in W.P(MD)No. 17531 of 2017 seeking compensation on the ground that his son died due to the negligence on the part of the respondents 4 to 8 therein. The Hon'ble Division Bench of this Court, by order dated 16.02.2018 allowed the Writ Petition and directed the first respondent to pay a sum of Rs.26 lakhs as compensation with interest at the rate of 9% per annum. In pursuant to the said order passed by this Court, the first respondent issued G.O(Ms)No.277, Public Works (I.Spl.2) Department dated 22.10.2018 and awarded compensation to the tune of Rs.27,61,556/- in favour of the said Muneeswaran for the death of his son. Therefore, the petitioner is



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also entitled for compensation as awarded in favour of the said Muneeswaran. It is relevant to extract the relevant portion hereunder:

'W.P.(MD)No.17531 of 2017

Payment of Compensation:

54.The illegal quarrying operation with the blessings of the authorities concerned contributed for making huge pits to the depth of 30 to 40 feet on the river bed of Cauvery flowing through the district of Karur. The Public Works Department also quarried sand in this area more than the permitted depth. The son of the petitioner drowned in the pit. The incident took place solely on account of the negligence and inaction of the officials of the Public Works and Revenue Department. The area is covered by the mining lease given to the Public Works Department for undertaking sand quarrying operations. The report submitted by the Advocate Commissioners clearly shows that mining operation was undertaken in the area beyond the permitted depth. The permission was to take one metre depth. However, sand was taken 30 to 40 feet below the water level and as a result, huge pit was found. The post-mortem report clearly shows that the death was on account of drowning. The petitioner is therefore justified in his contention that the State is liable to pay him compensation.

55. The deceased was 19 years. He was a third year student of Engineering in Computer Science at VSB Engineering College, Karur. He was a bright student. The petitioner lost his son at the age of 19 years. The hope of the



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petitioner that his son after getting employment would support the family is shattered on account of his untimely death. The State has not filed any counter affidavit in answer to the contentions taken in the affidavit filed in support of the writ petition for awarding compensation. There is nothing on record to disbelieve the case pleaded by the petitioner.

56. The old concept of maintainability of the writ petition under Article 226 of the Constitution for awarding compensation has undergone a sea change. The judicial concern now stands on the footing to provide emergent relief to the aggrieved rather than driving him to the Civil Court. The Courts have awarded compensation in Public Law without relegating the parties to the remedies available in Civil Law. We are therefore of the view that the claim is maintainable before this Court and that the petitioner is entitled to just compensation.

57. The next issue pertains to the quantum of compensation.

58. The multiplier method indicated in the Motor Vehicles Act is the safe method to assess the compensation in a case of this nature.

59. The issue before the Supreme Court in M.S.Grewal and another v. Deep Chand Sood and others [(2001) 8 SCC 151] was the legality of the claim for compensation on account of the drowning of children studying in 4th standard to 6th Standard. The Supreme Court while confirming the judgment of the High Court granting compensation approved the multiplier method for arriving at the quantum.



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60. Most recently, in National Insurance Company Limited v. Pranay Sethi and others [2017 (3) Scale], the Hon'ble Supreme Court indicated the factors to be taken note of including future prospectus by adopting multiplier method, for arriving at a just compensation.

61. Since the age as on the date of death was 19, the applicable multiplier is 16. The deceased was a student of third year Engineering course. He would have completed the course within one year. Taking into account the judgment of the Supreme Court in Pranay Sethi (cited supra), indicating that while determining the income addition of 50% of the actual salary to be included towards future prospectus, we uniformly fix the monthly income at Rs.20,000/-. The annual income would be a sum of Rs.2,40,000/-. In case, it is multiplied by 16, the total amount would come to Rs.38,40,000/- (Rupees Thirty eight lakhs forty thousand only) If 1/3 is deducted, it would come to Rs. 25,60,000/-. We add Rs.60,000/- on conventional head, namely loss of estate, loss of consortium and funeral expenses. The total amount would come to Rs.26,20,000/- lakhs. We fix the total compensation at Rs.26,00,000/- lakhs (Rupees Twenty six lakhs only) taking into account the entire background facts.

62. The State is vicariously liable for the acts and omissions of its servants.

63. We therefore direct the State to pay a sum of Rupees Twenty Six lakhs as compensation to the petitioner on account of the unfortunate death of his son. This incident should be an eye opener to the State. The State must act as a responsible body to protect the life of the citizens. The Payment shall be made by the first respondent within a period of eight



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weeks from the date of receipt of a copy of this order along with interest at 9% from the date of filing the writ petition.'

3.The fifth respondent filed a counter affidavit and on the submissions made by the learned Special Government Pleader appearing for the respondents would reveal that the length of the river Kavery is several Kilometers, hence except the allowed a noted bath guard, bath places with facilities of a footstep, iron, guard and noted places alone permitted to bath and no other places are all permitted to bath, if the deceased or any person enter into the river and take bath in any other places, going into the midst of the river or with consuming alcohol etc., or crossing of the river it all risk and liabilities caused by the person/deceased alone and there is no negligence on the part of the fifth respondent and the fifth respondent or the Government is not liable for the same. For compensation, the petitioner has to approach the civil Court for appropriate relief and work out his remedy if any, but not in this Writ Petition, as compensation for the loss of life in the river, where the petitioner's son has taken a gross risk in bathing in the non-bathing place of river Kavery. The first respondent had passed a G.O(Ms)No.277, Public Works (I.Spl.2) Department dated 22.10.2018, regarding payment of compensation and awarded a



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sum of Rs.27,61,556/- to Muneeswaran for the death of his son Ramkumar and the fifth respondent had paid the entire amount as per the direction of the Hon'ble Division Bench of this Court.

4.Considering the fact that the age of the petitioner's son as on the date of death was 21 and the deceased was a student of fourth year Engineering course and he would have completed the course, this Court is of the considered view to fix the monthly salary of the deceased as Rs.15,000/- per month. The Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others** reported in **2017 (2) TN MAC 609 (SC)** concluded that if the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant, where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. Since the deceased was aged 50 years and was self-employed, 25% of the income has to be added towards future prospects and on such addition, the monthly income comes to Rs. 21,000/- {Rs.15,000/- + Rs.6,000/- (40% of the income)}.



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Since the deceased was bachelor, 50% of the income has to be deducted towards personal and living expenses of the deceased and as such it come to Rs.10,500/- {Rs.21,000 – Rs.10,500}. As per the decision of the Hon'ble Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***2009 (2) TNMAC 1 (SC)***, the proper multiplier would be '18'. Hence the loss of dependency would be Rs.22,68,000/- (Rs. 10,500/- X 12 X 18). A sum of Rs.60,000/- is awarded towards conventional heads, namely loss of estate, loss of consortium and funeral expenses. Accordingly, the petitioner is entitled to get the compensation as follows:

Sl.No.	Description	Amount awarded Rs.
1.	Loss of dependency	22,68,000/-
2.	Loss of Estate, Loss of consortium and Funeral expenses	60,000/-
Total		23,28,000/-

5.In view of the above, the impugned order passed by the fifth respondent, dated 11.02.2019 cannot be sustained and the same is liable to be quashed.



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6. Accordingly, the impugned order passed by the fifth respondent, dated 11.02.2019 is quashed. The petitioner is entitled for a sum of Rs.23,28,000/- as compensation. The first respondent is directed to pay the sum of Rs.23,28,000/- along with interest at the rate of 6% per annum from the date of the representation submitted by the petitioner, dated 28.12.2018 till the date of realization, to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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G.K.ILANTHIRAIYAN, J.

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