



W.P.(MD) No.24171 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.24171 of 2018

1.G.M.Babu
2.Aruna Babu

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Higher Education,
Fort St. George,
Secretariat,
Chennai - 9.

2.The Bharathidasan University,
Rep. by its Registrar,
Tiruchirappalli,
Trichy District.

3.The Bharathidasan Institute of Management,
Rep. by its Director,
M.H.D. Complex,
BHEL Complex,
Tiruchirappalli - 620 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay compensation of Rs.50 lakhs for the death of the petitioners' son A.B.Shriram (23 years) due to the negligence on their part besides refund



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to the tuition fees, by considering the petitioners' representation dated 06.08.2018.

For Petitioner : Mr.N.Manokaran
For R1 : Mr.T.Amjadkhan
Government Advocate
For R2 : Mr.VR.Shanmuganathan
For R3 : Ms.N.Sumitha
for M/s.Ajmal Associates

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to pay compensation of Rs.50 lakhs for the death of the petitioners' son A.B.Shriram (23 years), due to the negligence on their part, besides refund of the tuition fees, by considering the petitioners' representation dated 06.08.2018.

2. The petitioners' son namely, A.B.Shriram, who was aged about 23 years tragically died on 17.02.2018. It appears that he left the College premises on the pretext of going for a walk, when indeed, he had gone for a movie and that he died while riding on a motorcycle as a pillion rider at about 02.30 a.m. at Kattur Little Flower School.



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3. It is the case of the petitioners that the College namely, the respondents 2 and 3 have been negligent in allowing their son to wander outside the campus, when indeed, the College prescribes the curfew hour at 10.00 p.m.

4. It is further submitted that the fees for the course has also been collected in advance, but has not been refunded back to the petitioners.

5. The Writ Petition is opposed by the learned Standing Counsel for the third respondent. It is submitted that the College cannot take the responsibility, as the undertaking was given by the petitioners' son late.A.B.Shriram that he was going for a walk, but had gone for a night show on a motorcycle and met with an accident tragically. It is further submitted that the insurance claim has been passed on to the petitioners and there is no question of granting any compensation or refunding of the fees collected in advance.

6. I have considered the arguments advanced by the learned counsel appearing for the parties.



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7. In my view, there is no scope for entertaining this Writ Petition for compensation on account of alleged negligence on the part of the third respondent College. If at all, it is open for the petitioners to file a suit for damages, as it would involve several disputed questions of fact, which cannot be decided in a summary procedure under Article 226 of the Constitution of India. At the same time, it would not be fair on the part of the third respondent to retain the fees paid for both the years, particularly, when the petitioners' son had joined the College only on 01.07.2017 and died on 17.02.2018. Although the second respondent may suffer a loss on account of the death of the petitioners' son A.B.Shriram, retention of the proportionate fee for the period after the death of the petitioners' son would be unconscionable.

8. Considering the fact that there is no dispute that the petitioners' son died on 17.02.2018, the proportionate fee paid in excess for one year should be refunded back with interest to the petitioners.

9. In the result, this Writ Petition is partly allowed, by directing the third respondent to refund 50% of the fees paid together with interest at 9% p.a. from 17.02.2018 till the date of realization to the petitioners. The



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petitioners are at liberty to file a suit to claim compensation before the competent Civil Court. No costs.

04.04.2024

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To

- 1.The Secretary to Government of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Secretariat,
Chennai - 9.
- 2.The Registrar,
Bharathidasan University,
Tiruchirappalli,
Trichy District.
- 3.The Director,
Bharathidasan Institute of Management,
M.H.D. Complex,
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C.SARAVANAN, J.

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