



WEB COPY



W.A.No.29 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Writ Appeal No.29 of 2025
and CMP No.179 of 2025

V.Baskar

... Appellant

Vs.

1.The State Rep.by its
Secretary to the Government,
Health Department,
Secretariat, Chennai 600 009.

2.The Dean,
Tamil Nadu Government Multi Super Specialty Hospital,
Omanthurar Estate,
Chennai 600 002

3.Dr.Boopathy
Tamil Nadu Government Multi Super Specialty Hospital,
Omanthurar Estate,
Chennai 600 002

4. Dr.Karuppusamy,
Tamil Nadu Government Multi Super Specialty Hospital,
Omanthurar Estate,
Chennai 600 002.

... Respondents



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Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the order passed in WP No.20443 of 2021 dated 24.04.2024.

For Appellant : Mr.P. Saravanan

For Respondents : Ms.M.Sneha
Special Counsel, for RR1 & 2

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellant sought for compensation of Rs.30 lakhs claiming that there was medical negligence on the part of the respondents in performing a surgery on his knee on 19.07.2019.

2. The claim was resisted by the respondents contending that the surgery was performed with utmost care and he was also explained about the surgical procedures and the possibility of there being joint stiffness. It was also claimed that he was discharged and he was readmitted on 13.01.2020 with complaints of stiffness. He was advised aggressive



physiotherapy to maintain the achieved range of motion. In effect the contention was that there was no negligence on the part of the Hospital or the Doctors who performed the surgery.

3. The Writ Court accepted the contentions in the counter affidavit and dismissed the writ petition leading to this Appeal.

4. We have heard Mr.P. Saravanan, learned counsel appearing for the appellant and Ms.Sneha, learned counsel appearing for the respondents 1 and 2.

5. We do not find any merit in the Appeal. Medical negligence is a fact which has been proved by evidence. The question as to whether there was negligence on the part of the Doctors cannot be conveniently decided in proceedings under Article 226 of the Constitution of India. We are also unable to sustain the conclusions of the learned Single Judge to the effect that there was no negligence on the part of the Doctors in the Writ proceedings.



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6. While confirming the dismissal of the Writ Petition, we dispose of the Writ Appeal with liberty to the appellant to approach appropriate Civil Court seeking compensation, upon proof of negligence. The period between 17.09.2021 and 20.01.2025 will stand excluded while calculating the limitation for filing of the suit. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)
20.01.2025

jv

Index: No

Speaking order

Neutral Citation: No

To

1.The Secretary to the Government,
Government of Tamil Nadu,
Health Department,
Secretariat, Chennai 600 009.

2.The Dean,
Tamil Nadu Government Multi Super Specialty Hospital,
Omanthurar Estate,
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and

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