



W.P(MD)No.13772 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P(MD)No.13772 of 2022

S.Rajasubramanian

... Petitioner

Vs.

**1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai-600 009.**

**2.The District Collector,
Thoothukudi,
Thoothukudi District.**

**3.The Deputy Director,
Department of Medical Rural Development
and Family Welfare,
Thoothukudi District.**

**4.The Registered Medical Officer,
Family Welfare,
Government Medical College,
Thoothukudi,
Thoothukudi District.**

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to grant compensation to the petitioner for the negligence in performing the Tubectomy Operation to his wife, namely, R.Palaniammal by the fourth respondent by considering his representation, dated 24.03.2022 within the time frame fixed by this Court and pass such further or other orders as this Court.

For Petitioner : Mr.C.Prithiviraj

For Respondents : M/s.P.B.Ahamed Yashmin Parvin
Government Advocate

ORDER

The petitioner seeks for a Writ of Mandamus to direct the respondents to grant compensation to the petitioner for the negligence in performing the Tubectomy Operation on his wife, namely, R.Palaniammal by the fourth respondent, by considering his representation, dated 24.03.2022.

2. The petitioner and one Palaniammal married each other. From the wedlock, a male child was born on 18.03.2018. Subsequently, another female child was born. On the advice of the fourth respondent, Tmt.Palaniammal underwent a permanent sterilization procedure on 21.03.2018. She was discharged from the hospital on 24.03.2018. After a couple of years,



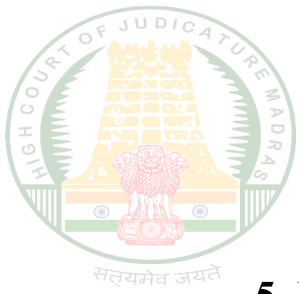
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Palaniammal fell sick and therefore, she was taken to the Primary Health Centre in Thoothukudi District. She was informed that she has conceived again. Shocked at this diagnosis, Palaniammal rushed to AVM Hospital at Thoothukudi and underwent a scan. It was confirmed that she is pregnant. She delivered a girl child on 03.07.2021. Yet again, to prevent any further child birth, Palaniammal underwent sterilization procedure all over again at AVM Hospital, Thoothukudi.

3. The petitioner pleads that his wife became pregnant only on account of the negligent manner in which the sterilization operation was performed and, therefore, the fourth respondent is liable to pay compensation for the said negligent act. He made a representation before the respondents on 24.03.2022 and as it was not favourably considered, he has come forward with the present writ petition.

4. Notice was ordered in the writ petition. M/s.P.B.Ahamed Yashmin Parvin, learned Government Advocate has entered appearance for the respondents. She has also filed a counter.



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5. In the said counter, the facts pleaded by the writ petitioner as regards the sterilization procedure performed at the fourth respondent Hospital are not disputed. However, it is pleaded that since the procedure undergone is tubal ligation, there is a rare possibility of the petitioner's wife conceiving again as about one in 200 women become pregnant after having undergone the procedure. This is an account of the fact, over time, the fallopian tubes could have grown back. They denied the allegation of negligence and totally refute that they are liable to pay a sum of Rs.5,00,000/- as compensation. In the counter, it is conceded that the Government has fixed compensation of Rs. 30,000/- as per G.O(Ms)No.150 of the Health and Family Welfare (R1) Department, dated 28.05.2014. They plead that there is an inherent risk of conception in all family planning operations and it is not a failed surgery due to negligence. On these grounds, they seek for dismissal of this petition.

6. I have heard Mr.C.Prithiviraj, learned Counsel for the petitioner and M/s.P.B.Ahamed Yashmin Parvin, learned Government Advocate for the respondents.



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7. The facts relating to the operation undergone by Palaniammal and the fact that she became pregnant again after the operation are not in dispute. It is pleaded by the petitioner that there is a negligence. M/s.P.B.Ahamed Yashmin Parvin, learned Government Advocate for the respondents points out that in every tubal ligation, there is a possibility of the fallopian tubes growing all over again resulting in the pregnancy of the woman, who has undergone the operation. In a writ petition dealing with medical negligence, unless and until the facts stare at the face of the respondents, this Court should not venture into a detailed discussion on medical aspects. However, taking note of the fact that the first respondent has passed an order in G.O(Ms)No.173, dated 31.05.2022 quantifying the compensation at Rs.60,000/- for failure of sterilization procedure, there shall be a direction to the fourth respondent to pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) to the writ petitioner's wife, within a period of two (2) weeks from today.

8. This writ petition is ordered on the above terms. There shall be no order as to costs.



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9. Call on 17.04.2025 under the caption 'For Reporting Compliance'.

26.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

Note: Issue order copy on 27.03.2025.

To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai-600 009.
- 2.The District Collector,
Thoothukudi,
Thoothukudi District.
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V.LAKSHMINARAYANAN, J.

BTR

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