



WP(MD)No.551 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 28/01/2026

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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P.Kalarani

... Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai 600 009.

2. The Joint Director of Health Services,
DMS Office Campus,
Teynampet,
Chennai 600 018.

3. The District Collector,
Tenkasi District,
Tenkasi 627 811.

4. The Medical Superintendent,
District Government Hospital,
Tenkasi 627 811.

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the
Constitution of India, praying this court to issue a Writ of



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Mandamus, directing the 1st respondent to pay Rs.5,00,000/- (Rupees Five Lakhs) towards compensation to the petitioner for medical negligence caused to the petitioner resulting in lifetime financial constraints caused to the petitioner to bring up her 3rd child and to provide free education to the 3rd child of the petitioner either in the Government School or in a Private School and the fees already paid shall be refunded and all the expenses on books, stationery, uniforms and other miscellaneous educational expenses shall also met by the respondents and the respondents shall pay a sum of Rs. 1,20,000/- per year (Rs.10,000/- per month) to meet the child's need for food and proper upbringing till she completes her graduation or attaining 21 years whichever is earlier.

For Petitioner : Mr.V.Kasiraja

For Respondents: Mrs.K.Malathi

Additional Government Pleader



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coolie and also a physically challenged person. They are having two children. In order to avoid further pregnancy, the petitioner underwent laparoscopic sterilization in Tenkasi Government Hospital on 09.08.2001. Thereafter, when the petitioner entered into matrimonial obligations, she got conceived in January 2013 and delivered a third child on 18.11.2013 due to medical negligence of the hospital. Hence, she made a representation to the respondents 1, 2 and 4 on 17.08.2023 praying for compensation of Rs.5,00,000/- and to provide free education to the third child either in the Government School or in a Private School and the fees already paid shall be refunded and all the expenses on books, stationery, uniforms and other miscellaneous educational expenses shall also be met by the respondents and that the respondents shall pay a sum of Rs.1,20,000/- per year (Rs.10,000/- per month) to meet the child's need for food and proper upbringing till she completes her graduation or attaining 21 years. Since there was no response, the petitioner has filed this writ petition.



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3. Learned counsel for the petitioner has relied upon the order passed in W.P.No.22349 of 2018, dated 25.01.2022 [Tmt.Dhanam vs. Secretary to Government, Health and Family Welfare Department, Chennai and three others] and W.A.No.2506 of 2022, dated 09.07.2024 and submitted that in identical matters, positive orders were passed by this Court. Thus, he would pray that this writ petition may also be disposed of in similar lines.

4. Learned Additional Government Pleader appearing for the respondents relied upon G.O(Ms)No.119, Health and Family Welfare (R1) Department, dated 30.05.2013 and submitted that as per the said G.O., in case of failure of sterilization, the ceiling limits of compensation is only Rs.30,000/- and therefore, only a sum of Rs.30,000/- can be awarded as compensation.

5. I have considered the submissions made on either side and perused the materials available on record.



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6. The admitted facts are that the petitioner after giving birth to two children, underwent laparoscopic sterilization. Even thereafter, she got conceived and gave birth to third child who is a female child. Hence, she made representations to the authorities seeking compensation, free education and other benefits to the third child. Since her claim was not responded, she has filed this writ petition.

7. As rightly contended by the learned counsel for the petitioner, the issue raised in this writ petition is no more *res integra* in view of the the order passed in *W.P.No.22349 of 2018, dated 25.01.2022 [Tmt.Dhanam vs. Secretary to Government, Health and Family Welfare Department, Chennai and three others]*, wherein, after extensively considering the medical negligence and also the judgment of the Hon'ble Supreme Court in *State of Haryana vs. Santra* reported in (2000) 5 SCC 182, with



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regard to award of compensation by the Court for the medical negligence, I have passed the following order:

"19. In view of the above discussion, this Court of the view that the petitioner is entitled to the compensation and keeping in view the economic and social background of the petitioner and other relevant circumstances, ends of justice would be met in providing the compensation of Rs.3,00,000/-. In addition to this, on attaining the age of five years, the respondents are directed to admit the 3rd child of the petitioner in a Government or private school. She would be provided with free education, i.e., no fee would be charged and all the school fee and other fees paid, shall be refunded by the respondents; all her expenses on books, stationery, uniforms and other miscellaneous educational expenses, would also be met by the respondents. Further, the respondents shall pay Rs. 1.2 lakhs per year to meet her needs for food and proper up-bringing till she completes her graduation or attaining 21 years, whichever is earlier, calculated @ Rs.10,000/- per month, amount under this head would be approximately Rs.1.2 lakhs. Further, the benefits granted by the Government under the female child scheme shall also be extended to the petitioner."



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8. The abovesaid order was taken on appeal in W.A.No. 2506 of 2022 and a Division Bench by judgment dated 09.07.2024 has confirmed the said order in all respects except the compensation of Rs.1,20,000/- awarded for bringing up the third child, in the following lines:

"12. As far as the order of the writ court with regard to the payment of compensation of Rs.1,20,000/- per year, is concerned, as argued by the learned Special Counsel for the appellant, there is no provision in the Family Planning Indemnity Scheme for such payment towards maintenance of the child till she attains the age of 21 years. There is no provision relied on by the parties for entitlement of any maintenance under the Family Planning Indemnity Scheme. These disputed question of facts cannot be gone into by this Court. Further, considering the risk factor of 0.5% during sterilization operation is involved, it cannot be construed that the Medical Officer had performed operation in a negligent manner. If at all the first respondent/writ petitioner is having any right, he can approach the competent Civil Forum seeking compensation. In such circumstances, the award of additional compensation of Rs.1,20,000/- per year, on account of negligence on the part of the medical officer, passed by the



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learned Single Judge is liable to be set aside.

13. Accordingly, it is ordered as follows.

i) This writ appeal is partly allowed, by setting aside the order of the writ court, in so far as the payment of compensation of Rs.1,20,000/- per year (as stated supra). As far as the other aspects are concerned, the order of the writ court is confirmed, as the same is already complied with.

ii) Liberty is granted to the respondent to go before the civil court, seeking additional compensation in future, if she so advised, within two months from the date of receipt of a copy of this order.

iii) It is made clear that, if the respondent is approached the civil court, the observation made by this court will not bind the concern forum to decide the issue with regard to the payment of additional compensation and they have to take independent decision, on its own merits, without being influenced any one of the observations made by this court.

iv) It is also made clear that this order will not a precedent to any other cases in future, seeking such compensation, as ordered by the writ court.

14. With the above directions, this writ appeal is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.'



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9. In my view, the said order is squarely applicable to the present case on hand and the petitioner herein is also entitled to compensation and keeping in view the economic and social background of the petitioner and other relevant circumstances, ends of justice would be met in providing the compensation of Rs. 3,00,000/- to the petitioner. Accordingly, the respondents are directed to grant compensation of Rs.3,00,000/- (Rupees Three Lakhs only) to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. In addition to this, on attaining the age of five years, the respondents are directed to admit the 3rd child of the petitioner in a Government, Government aided or private school. She shall be provided with free education, i.e., no fee would be charged and all the school fee and other fees paid, shall be refunded by the respondents; all her expenses on books, stationary, uniforms and other miscellaneous educational expenses, would also be met by the respondents. Further, the benefits granted by the Government under the female child



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scheme shall also be extended to the petitioner.

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10. With the above direction, the Writ Petition is disposed

of. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

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To

1. The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai 600 009.

2. The Joint Director of Health Services,
DMS Office Campus,
Teynampet,
Chennai 600 018.

3. The District Collector,
Tenkasi District,
Tenkasi 627 811.

4. The Medical Superintendent,
District Government Hospital,
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KRISHNAN RAMASAMY, J.

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ORDER MADE IN
WP(MD) No.551 of 2024

DATED : 28.01.2026