



W.P(MD)No. 9982 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30-07-2025**

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

W.P(MD)No. 9982 of 2023

S.Savithiri

... Petitioner

Vs

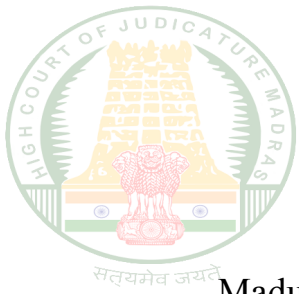
1. The State of Tamilnadu,
Rep. by the Principal Secretary,
Health and Family Welfare Department,
State of Tamilnadu, Fort. St. George,
Chennai – 9.

2. The Director,
Directorate of Medical Education,
O/o.the Director of Medical Education,
Kilpakkam, Chennai - 10.

3. The District Collector,
O/o.The District Collector,
Madurai District.

4. The Dean,
Govt. Rajaji Hospital, Madurai,
Madurai District.

5. R.Arivasan, MS Ortho,
Head of the Department, Orthopaedic Department,
Madurai Government Rajaji Hospital,



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Madurai District.

6. K.Singaravel, M.S.Ortho
Assistant Professor, Orthopaedic Department,
Madurai Government Rajaji Hospital,
Madurai District.

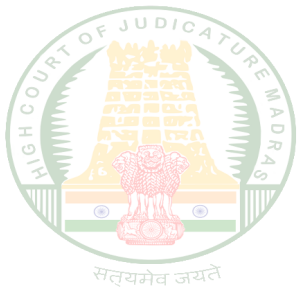
7. S.Karthikeyan, MS Ortho,
Assistant Professor, Orthopaedic Department,
Madurai Government Rajaji Hospital,
Madurai District.

8. Gopi Manohar, DNB, D.Ortho,
Assistant Professor, Orthopaedic Department,
Madurai Government Rajaji Hospital,
Madurai District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents No.1 to 4 to pay fair and reasonable amount of compensation to the petitioner for the death of her husband and mental suffering experienced by the petitioner and her family members and to take appropriate disciplinary actions against the respondent No.5 to 8 who have negligently treated the petitioner's husband within the time stipulated by this Court.

For Petitioner : Mr.S.Dhayalaeswaran
for M/s.R.Alagumani



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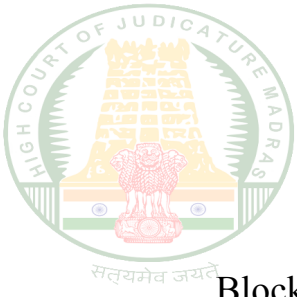
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R1 to R4

ORDER

The present writ petition has been filed for issuance of writ of mandamus to pay compensation to the petitioner for the death of her husband and mental suffering experienced by the petitioner and her family members and to take appropriate disciplinary actions against the respondent No.5 to 8, who have committed medical negligence.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4.

3. The learned counsel for the petitioner would submit that the petitioner's husband met with an accident on 12.07.2021. Immediately, he was admitted in the Thirumangalam Government Hospital. Thereafter, for further treatment he was admitted in Ortho OP



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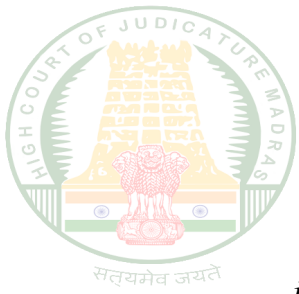
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Block at Madurai Government Rajaji Hospital. Since his health condition was not sufficient to undergo surgery, he was treated as out patient. Subsequently, he was admitted for conducting operation. He was administrated anesthesia in spine, suddenly, he developed chest congestion and he was immediately administrated CPR to revive and taken care under ICU facility. Inspite of such steps, the petitioner's husband could not be saved and he died on 28.07.2021.

4.The contention of the petitioner is that there is medical negligence on the part of the respondents, especially, the private respondents, who are arrayed in their personal capacity in this writ petition. The learned counsel for the petitioner heavily relied on the postmortem report where it is stated there was temporalis muscles bruised and brain haemorrhage. The relevant portion is extracted as under:

“On dissection of Scalp, Skull & Dura:

Subscalpal contusion measuring 8 cm x 6 cm noted over left temporal region and 10 cm x 6 cm noted over right temporal region. Both temporalis muscles bruised. Brain found oedematous and cerebral spinal fluid increased



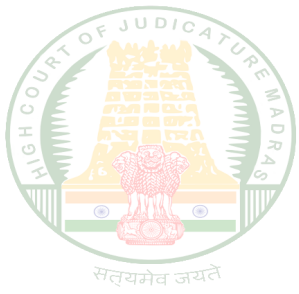
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in volume. Mild diffuse subdural haemorrhage and subarachnoid haemorrhage noted over both cerebral hemispheres.”

5. On very reading of the said report, it indicates some medical experts ought to explain whether such condition has direct nexus for the death. If so then the petitioner ought to have filed a suit along with the documents and evidence and witness through experts and the same cannot be entertained under this writ jurisdiction.

6. The learned Additional Government Pleader for the respondents 1 to 4 submitted that the prayer sought for in this writ petition cannot be entertained for the sole reason that there is no medical negligence as alleged since immediately after giving anesthesia when the patient developed chest congestion, he was admitted in ICU and other proper care was granted to the petitioner's husband and inspite of the same, the patient could not be saved. Therefore, there is no medical negligence.



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7. In view of the above, this Court is of the considered opinion that civil Court alone can determine such issue. However, the petitioner is entitled to medical insurance under G.O.Ms.395, Health and Family Welfare, dated 04.09.2018. Therefore, the respondents shall consider the case of the petitioner for granting compensation under the above said Government Order. Insofar as the medical negligence issue is concerned, the same is rejected.

8. With the above observation, this Writ Petition is disposed of. No Costs.

30.07.2025

Internet: Yes/No

Index: Yes/No

NCC: Yes/No

PJL

To

1. The Principal Secretary,
Health and Family Welfare Department,
State of Tamilnadu, Fort. St. George,
Chennai – 9.



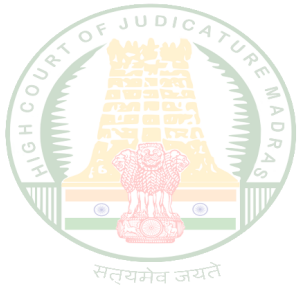
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2.The Director,
Directorate of Medical Education,
O/o.the Director of Medical Education,
Kilpakkam, Chennai - 10.

3.The District Collector,
O/o.The District Collector,
Madurai District.

4.The Dean,
Govt. Rajaji Hospital, Madurai,
Madurai District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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