

Union of India Vs. Jothilakshmi

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Court : Chennai

Decided On : Jun-27-2013

Judge : M.Jaichandren

Appellant : Union of India

Respondent : Jothilakshmi

Judgement :

In the High Court of Judicature at Madras Dated: 27.06.2013 CORAM: The Hon'ble Mr.Justice M.Jaichandren and The Hon'ble Mr.Justice M.M.Sundresh Writ Appeal No.1495 of 2011 Union of India, rep.

by its Commandant-in-Chief, Central Reserve Protection Force, Avadi, Chennai.Appellant versus 1.Jothilakshmi 2.The Sub-Inspector of Police, FZ Tank Factory Police Station, Avadi, Chennai.Respondents PRAYER: Appeal is filed under Clause 15 of the Letters Patent, against the order dated 9.11.2009, in W.P.No.9909 of 2004.

----- For appellant : Mr.Velayutham Pichaiya For respondents: Mrs.Indirani for R.1
Mr.R.Ravichandran, AGP for R.2.

JUDGMENT

[Judgment of the Court was delivered by M.M.Sundresh, J.].This Writ Appeal has been preferred against the order passed by a learned single Judge, dated 9.11.2009, made in W.P.No.9909 of 2004, whereby a direction was issued to make payment of a sum of Rs.3,67,758/-, as compensation, to the fiRs.respondent, with interest at 6% per annum.

2.It is seen that the 1st respondent had sustained a bullet injury.

Investigation done by the 2nd respondent would show that firing practice had taken place on the date of occurrence at Central Reserve Police Force [CRPF].Group Centre, at Morai village, by 78th Battalion CRPF.

The said place was closure to the scene of occurrence.

At the time of occurrence, firing was done.

The bullet recovered from the 1st respondent is of 7.62 mm, which is used in SLR weapons, and it was used by the CRPF personnel while performing firing practice at CRPF camp on the date of occurrence 09.12.2003.

3.

The learned counsel appearing for the appellant would submit that when there are disputed questions of facts, the learned single Judge ought not to have passed the order.

4.

We are afraid that the said contention of the learned counsel for the appellant cannot be countenanced for the reason that the surrounding circumstances would clearly establish the fact that the bullet, which was responsible to cause injury on the 1st respondent, had emanated from the CRPF Police Force firing place at Morai village.

There is also no dispute about the fact that firing practice was held at the time of occurrence.

The appellant has also, in his counter, admitted the fact that 7.62 mm SLRs were used during firing practice on 9.12.2003.

There is no bar for this Court to go into the facts, which are very clear.

The jurisdiction of this Court to go into the disputed fact is one of prudence and practice to be applied on the facts available before us.

Admittedly, the 1st respondent is an illiterate house wife.

She has suffered bullet injury due to the negligence caused by the personnel of the appellant.

The bullet was removed after performing a surgery on her.

She has also said to have spent more than Rs.2 lakhs for her medical expenses.

The learned single Judge quantified the amount based upon the procedure contemplated under the Motor Vehicles Act, which is permissible in law.

Therefore, we do not find any reason to interfere with the order passed by the learned single Judge.

5.

However, it is brought to our notice that the appellant has already paid a sum of Rs.2 lakhs during the pendency of the writ appeal, to the 1st respondent.

Therefore, what is to be paid is only a further sum of Rs.1,67,758/-.

We make it clear that the interest awarded by the learned single Judge at 6% per annum is applicable only to the said amount of Rs.1,67,758/-.

The appellant is directed to make the said payment to the 1st respondent, within a period of two months from the date of receipt of a copy of this order.

6.

With the aforesaid directions, the Writ Appeal is dismissed.

No costs.

M.P.No.1 of 2011 is closed.

gs.

[M.J., J.].[M.M.S., J.].27th June, 2013 Index:Yes/No.Internet:Yes/No.To 1.Union of India,rep.

by its Commandant-in-Chief, Central Reserve Protection Force, Avadi, Chennai.

2.Jothilakshmi 3.The Sub-Inspector of Police, FZ Tank Factory Police Station, Avadi, Chennai.

M.Jaichandren, J.

and M.M.Sundresh, J.

gs.

Writ Appeal No.1495 of 2011 27.6.2013

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