

Tiny vs State of Kerala

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Court : Kerala

Decided On : Jan-23-2023

Judge : Honourable Mr. Justice Shaji P.Chaly

Appeal No. : WP(C)/15299/2022

Appellant : TINY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SHAJI P.CHALY
MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944
PETITIONERS:

1 TINY AGED 40 YEARS W/O. LATE SAVY THOMAS, VACHANKULAM HOUSE, KARUKUTTY P.O., PRESENTLY RESIDING AT AZHAKAM P.O., ERNAKULAM DISTRICT, PIN: 683544. 2 SANJU SAVI, AGED 18 YEARS S/O. LATE SAVY THOMAS, VACHANKULAM HOUSE, KARUKUTTY P.O., PRESENTLY RESIDING AT AZHAKAM P.O., ERNAKULAM DISTRICT, PIN: 683544. 3 SACHU SAVI, AGED 15 YEARS S/O. LATE SAVY THOMAS, VACHANKULAM HOUSE,

KARUKUTTY P.O., PRESENTLY RESIDING AT AZHAKAM P.O., ERNAKULAM DISTRICT, PIN: 683544. (REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN TINY, AGED 40 YEARS, W/O. LATE XAVI, VACHANKULAM HOUSE, KARUKUTTY P.O., PRESENTLY RESIDING AT AZHAKAM P.O., ERNAKULAM DISTRICT, PIN: 683544.)

BY ADVS. E.C.POULOSE BOBBY RAPHEAL.C RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 682031. 2 THE SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT (STATE HIGHWAY), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 682031.

3 THE CHIEF ENGINEER (ROADS), OFFICE OF THE CHIEF ENGINEER (ROADS), PUBLIC OFFICE COMPLEX, PUBLIC OFFICE P.O., THIRUVANANTHAPURAM-695033. 4 THE COMMISSIONER, KERALA ROAD SAFETY AUTHORITY, 4TH FLOOR, TRANS TOWERS, DPI., VAZHUTHACAUD, THIRUVANANTHAPURAM - 695014. 5 THE EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT ROADS, OFFICE OF THE EXECUTIVE ENGINEER, GROUND FLOOR, PWD COMPLEX, CIVIL STATION, PALAKKAD, PIN: 678001. 6 THE CHAIRMAN, PERMANENT LOK ADHALATH, COURT COMPLEX, KALOOR, ERNAKULAM - 682017. 7 THE STATION HOUSE OFFICER, ALATHUR POLICE STATION, ALATHUR, PALAKKAD, PIN- 678541.

SMT.DEEPA NARAYANAN SR GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed by the petitioners seeking the following reliefs:-

(i) Issue a writ of mandamus or other appropriate writ,

order or direction, directing the respondents 2 to 5 to take

appropriate action on Ext.P6 representation of the petitioners within a time frame fixed by this Honble Court.

2. The basic contention advanced by the

petitioners in the writ petition is that, they are the wife and children of one Mr.Savy Thomas, who succumbed to the grievous injuries caused in a Motor Vehicle accident on 28.01.2021 at about 4.15 p.m., at Nenmara, Palakkad District, while the deceased was driving the Motor Car bearing Registration No.KL-3P/0044.

3. The grievance of the petitioner is that the

accident took place since the vehicle toppled for the reason that the construction of the road is unscientific and therefore, the respondents are liable to compensate the petitioners. In fact, the petitioners have submitted Ext.P6 representation before the Principal Secretary, PWD (State Highway, Thiruvananthapuram), which is pending consideration also.

4. However, a counter affidavit is filed in this writ

petition disputing the allegations made by the petitioner that it was due to the unscientific manner in which the road was constructed the accident took place. Anyhow, without making any observation with respect to the rival contentions raised in the writ petition, I think it is only appropriate that Ext.P6 representation is directed to be disposed of within a time frame. Having heard the learned counsel for the petitioner Smt.Bobby Rapheal C. and the learned Senior Government Pleader Smt.Deepa N, this writ petition is disposed of directing the 2nd respondent-Secretary to Government to consider Ext.P6 representation submitted by the petitioner, at the earliest possible and at any rate, within three months from the date of receipt of a copy of this judgment, after securing participation of one of the petitioners by issuing a notice. Sd/- SHAJI P.CHALY JUDGE spk APPENDIX OF WP(C) 15299/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF DEATH CERTIFICATE DATED NENMARA GRAMA PANCHAYATH. Exhibit P2 TRUE COPY OF THE F.I.R. IN CRIME NO. PALAKKAD DISTRICT. Exhibit P3

TRUE PHOTOGRAPHS SHOWING THE LIE AND NATURE OF THE CURVE IN QUESTION. Exhibit P4 TRUE COPY OF THE DRIVING LICENSE NO.41/187/1997 OF THE DECEASED SAVY THOMAS. Exhibit P5 TRUE COPY OF THE REPLY DATED INFORMATION OFFICER, ALATHUR POLICE STATION. Exhibit P6 TRUE COPY OF REPRESENTATION DATED BEFORE THE 2ND RESPONDENT. Exhibit P7 TRUE COPY OF THE ACKNOWLEDGMENT CARD DATED 12/5/2021 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT. Exhibit P8 TRUE COPY OF THE PETITION DATED BEFORE THE HON'BLE PERMANENT LOK ADHALAT, ERNAKULAM WITH ENDORSEMENT IN THE DOCKET SHEET. Exhibit P9 TRUE COPY OF THE REPRESENTATION DATED BEFORE THE 4TH RESPONDENT. Exhibit P10 TRUE COPY OF THE LETTER DATED OFFICER OF THE 4TH RESPONDENT. Exhibit P11 TRUE COPY OF THE REPLY DATED 18/2/2022 SENT BY THE STATE PUBLIC INFORMATION OFFICER OF THE 2ND RESPONDENT. Exhibit P12 TRUE COPY OF THE REPLY DATED 2/3/2022 ISSUED BY THE 3RD RESPONDENT. RESPONDENT EXHIBITS EXHIBIT R5 (A) TRUE COPY THE SCREENSHOT OF THE NEWS REPORTED BY AN INDEPENDENT VOLUNTEER. EXHIBIT R5 (B) TRUE PHOTO COPY OF THE SCREENSHOT OF THE VIDEO AT A POINT EXHIBIT R5 (C) TRUE COPY OF THE LETTER NUMBER AEERD- SDOALTR/51/2022-C2-PWD DATED 23.05.2022 OF THE ASSISTANT ENGINEER, PWD ROADS SUB DIVISION, ALATHUR

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