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Prema vs Dakshinamurthy

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Court : Chennai

Decided On : Mar-18-2026

Judge : Honourable Mr Justice K.Murali Shankar

Appeal No. : SA(MD)/496/2022

Appellant : PREMA

Respondent : Dakshinamurthy

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT RESERVED ON : 21.01.2026 DELIVERED ON : 18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR S.A.(MD).Nos.496 of 2022 and 737 of 2024 and C.M.P.(MD)Nos.6446 of 2022 and 17843 of 2024 S.A.(MD)No.496 of 2022: 1.Prema 2.J.Sudha : Appellants/Appellants/Defendants 1 and 2 Vs. 1.Dakshinamurthy 2.Minor Ilakkiya represented by her father guardian Dakshinamurthy : Respondents/Respondents/ Plaintiffs 3.Dr.Abdul Kavi, Medical Officer, Primary Health Centre, Thirunageswaram, Kumbakonam Taluk. : Respondent/3rd Respondent/ 3rd Defendant 4.State of Tamil Nadu,

represented by its Collector, Thanjavur, Collectorate, Thanjavur. : Respondent / 3rd Appellant/4th Defendant PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree in A.S.No.124 of 2018, passed by the Additional District Judge, Fast Track Court, Kumbakonam, dated 12.01.2022, which confirmed the judgment and decree in O.S.No.166 of 2012, passed by the Additional Subordinate Judge, Kumbakonam, dated 26.02.2016.

For Appellants : Mr.J.Parekhkumar For Respondents : Mr.G.Gomathi Sankar for R.1 and R.2 : Mr.A.Senthilkumar for R.3 : Mr.D.Gandhiraj Special Government Pleader for R.4 S.A.(MD)No.737 of 2024: State of Tamil Nadu, represented by its District Collector, Thanjavur, Collectorate, Thanjavur. : Appellant/4th Respondent/4th Defendant Vs. 1.Dakshinamurthy 2.Minor Ilakkiya represented by her father guardian Dakshinamurthy. : Respondents 1&2/Respondents 1&2/ Plaintiffs 1 & 2

3. Prema

4. J.Sudha

5. Dr.Abdulkavi Medical Officer, Primary Health Centre, Thirunageswaram, Kumbakonam Taluk. : Respondents 3 to 5/Respondents 3 to 5/ Defendants 1 to 3

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree in A.S.No.124 of 2018, passed by the Additional District Judge, Fast Track Court, Kumbakonam, dated 12.01.2022, which confirmed the judgment and decree in O.S.No.166 of 2012, passed by the Additional Subordinate Judge, Kumbakonam, dated 26.02.2016. For Appellant : Mr.D.Gandhiraj Special Government Pleader For Respondents : Mr.G.Gomathisankar for R.1 and R.2 : Mr.J.Parekhkumar for R.3 and R.4

COMMON JUDGMENT

These Second Appeals are directed against the judgment and decree made in A.S.No.124 of 2018, dated 12.01.2022, on the file of the Additional District Court (Fast Track Court), Kumbakonam, confirming the judgment and decree, passed in O.S.No.166 of 2012, dated 26.02.2016, on the file of the Additional Subordinate Court, Kumbakonam.

2. The appellants in S.A.(MD)No.496 of 2022 are the defendants 1 and 2

and the appellant in S.A.(MD)No.737 of 2024 is the fourth defendant. The respondents as plaintiffs filed a suit in O.S.No.166 of 2012, before the Subordinate Court, Kumbakonam claiming compensation of Rs.5,00,000/- for the death of wife of the first plaintiff and the mother of the second plaintiff, who died due to the medical negligence.

3. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in their original suit.

4. The case of the plaintiffs in brief is as follows:

(a) One Jayalakshmi, wife of the first plaintiff and mother of the second

plaintiff, conceived for the second time in the year 2008. Upon learning of her pregnancy, she has been regularly taking treatment and receiving medical guidance at the Primary Health Centre, Thirunageswaram from 01.05.2008 to 17.10.2008. At the relevant point of time, the first defendant was serving as an Auxiliary Nurse-cum-Mid Wife, the second defendant as a staff nurse and the third defendant as medical officer in charge of the said Primary Health Centre. During her visit to the Primary Health Centre, the defendants 1 to 3 had informed that the growth of the foetus was normal and satisfactory.

(b) On 17.10.2008, at about 09.30 a.m., the first plaintiff took his wife,

Jayalakshmi, to the Primary Health Centre, Thirunageswaram, for delivery. At the said Centre, certain medicines and injections were administered to induce artificial labour pain. As the labour pain was stated to be insufficient, the first plaintiff was advised to take his wife home and give her food (rice) to augment the pain. Acting on such instructions, the first plaintiff took his wife home and gave her rice with rasam.

(c) Thereafter, Jayalakshmi developed severe pain accompanied by excessive bleeding, and the first plaintiff, along with his sister-in-law, took her

back to the Primary Health Centre at about 02.30 p.m. on the same day. The defendants 1 and 2, who were on duty at that time, advised that walking would help intensify the labour pain and made Jayalakshmi walk within the hospital campus. While so walking, she became exhausted and sat down. However, after about two hours, the defendants 1 and 2, without providing necessary treatment or arrangements, directed the first plaintiff to take her elsewhere for delivery, stating that the delivery could not be conducted at the Centre. The defendants 1 and 2, in a casual and negligent manner, at the eleventh hour, advised the first plaintiff to take Jayalakshmi to Kumbakonam, without even arranging an ambulance for her transfer.

d) The first plaintiff is an illiterate coolie worker. Left with no alternative, he took his wife in an auto-rickshaw to the Government Headquarters Hospital, Kumbakonam, and reached there at about 06.00 p.m. On arrival, the duty doctor informed that Jayalakshmi had been brought dead. The death of Jayalakshmi was solely due to the negligence and lack of due care on the part of the defendants 1 to 3. The first plaintiff has thus lost his wife, and the second plaintiff has lost her mother at a tender age. The deceased Jayalakshmi was engaged in silk weaving work and was earning a sum of Rs.10,000/- per month. She was also a member of

the Tamil Nadu Khadi and Silk Weaving Welfare Board. Since the defendants 1 to

3 failed to discharge their basic duties in providing proper medical care in relation to the delivery and were grossly negligent, thereby committing deficiency in service, they are liable to pay compensation to the plaintiffs. The fourth defendant, being the head of the District Administration, has been impleaded as a necessary party.

5. The defence of the defendants 1 to 3 in short is as follows:

a) It is admitted that the first plaintiffs wife, Jayalakshmi, had been receiving medical treatment and counselling at the Primary Health Centre, Thirunageswaram, during the period from 01.05.2008 to 17.10.2008. It is further admitted that she was brought to the said Primary Health Centre at about 09.30 a.m. on 17.10.2008, at which time the first defendant alone was on duty. The first defendant is an Auxiliary Nurse-cum-Midwife with 24 years of experience. The second defendant is working as a nurse, and the third defendant has been serving as a Medical Officer for the past 10 years. On 17.10.2008, the third defendant was deputed to attend a medical camp conducted at the Primary School in Paruthikudi Village, as per the orders of the Taluk Medical Officer. b) It is further stated that, on examination, intravenous fluid, namely Ringer Lactate, was administered to Jayalakshmi through a drip. As her condition was found to be stable, she left the hospital. Subsequently, she returned

complaining of pain. Upon further examination, it was found that the head of the foetus was not descending properly. In view of the same, she was advised to proceed to the Government Headquarters Hospital, Kumbakonam, for further management. According to the defendants, there was no negligence or deficiency in service on their part, and the administration of the Primary Health Centre cannot be held responsible

for the death of Jayalakshmi. Hence, the defendants are not liable to pay any compensation, and the suit is liable to be dismissed.

6. The defence of the fourth defendant, in short, is as follows:

The fourth defendant has been unnecessarily impleaded in the present suit. The fourth defendant has no knowledge of the averments made by the plaintiffs regarding the treatment allegedly given to the first plaintiffs wife, Jayalakshmi, at the Primary Health Centre, Thirunageswaram, by defendants 1 to 3. Further, no specific relief has been sought as against the fourth defendant. It is contended that the plaintiffs have not made out any case, much less a prima facie case, and that the cause of action as pleaded is incorrect. Hence, the suit is liable to be dismissed as against the fourth defendant.

7. The learned trial Judge, upon considering the pleadings, framed the following issues:

(i) Whether the plaintiffs are entitled to get compensation?

(ii) If so, what is the quantum of compensation and from which of the defendants is the same to be recovered?

(iii) What other relief? Additional Issue was framed on 24.02.2016, which is as follows:

(i) Whether the trial Court has jurisdiction to try this suit?

8. During trial, the first plaintiff examined himself as P.W.1 and examined

two other witnesses Tmt.Shanthi and Tmt.Indirani as P.W.2 and P.W.3 respectively and exhibited six documents as Exs.A.1 to A.6. The defendants examined the first defendant and the third defendant as D.W.1 and D.W.2 respectively and exhibited five documents as Exs.B.1 to B.5. The learned trial Judge, upon considering the pleadings and

evidence both oral and documentary and on hearing the arguments of both sides, passed the judgment and decree dated 26.02.2016, holding that the defendants 1 and 2 are responsible, directed the fourth defendant to pay a compensation of Rs.5,00,000/- to the plaintiffs with interest at 6%p.a., from the date of the suit till realisation and the fourth defendant was given liberty to recover the entire compensation in equal proportion from the defendants 1 and 2. Aggrieved by the said judgment and

decree, the defendants 1, 2 and 4 preferred an appeal in A.S.No.124 of 2018 and the learned Additional District Judge, Kumbakonam, upon considering the materials available on record and on hearing the arguments of both sides, passed the impugned judgment and decree, dated 12.01.2022, dismissing the appeal and thereby confirming the judgment and decree of the trial Court. Challenging the dismissal of the first appeal, the defendants 1 and 2 have filed the second Appeal in S.A.(MD)No.496 of 2022 and the fourth defendant has filed a separate Second Appeal in S.A.(MD)No.737 of 2024.

9. Though the above Second Appeals have been pending since 2022 and 2024 respectively, they have not yet been admitted and consequently, no Substantial Question of Law has been formulated.

10. At the outset, it is necessary to refer the mandate of Hon'ble Supreme

Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs., reported in AIR 2019 SC 1441, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil Procedure is strictly confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.

11. The Hon'ble Supreme Court in the case of Chandrabhan Vs. Saraswati

and others reported in 2022 SCC OnLine SC 1273 has specifically held that right of appeal is not automatic and right of appeal is conferred by statute and when statute confers a limited right of appeal restricted only to cases which involve

substantial questions of law, it is not open to the High Court to sit in appeal over the factual findings arrived at by the First Appellate Court and the Hon'ble Supreme Court summarized the principles relating to Section 100 C.P.C., which are as follows; (i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it

gives rise to a question of law.

(ii) The High Court should be satisfied that the case

involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents and involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the court below has decided the matter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still

debatable, but because the decision rendered on a material question, violates the settled position of law.

(iii) The general rule is that the High Court will not

interfere with findings of facts arrived at by the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to "decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.

12. Bearing the settled legal position in mind, let us proceed with the present case.

13. The learned Counsel for the appellants in S.A.(MD)No.496 of 2022

would submit that the appellants were not responsible for the death caused to Jayalakshmi and both the Courts below failed to notice that the said Jayalakshmi was hale and healthy at the time when she was discharged from the Primary Health Centre, Thirunageswaram and referred to Government Hospital,

Kumbakonam, that since the plaintiffs failed to produce the postmortem certificate, the Courts below ought to have rejected the case of the plaintiffs, that the burden is only on the plaintiffs to establish the negligence on the part of the defendants by producing necessary evidence including the postmortem certificate and another expert opinion from other medical processional, but the plaintiffs failed to produce those evidence, that the plaintiffs are duty bound to show that there is a duty on the side of the defendants and the defendants breached that duty and because of that breach, the plaintiffs suffered injuries and that the plaintiffs had not established the breach of duty as well as the injury suffered by the plaintiffs.

14. The learned Counsel would further submit that the Courts below failed

to understand the duty of the Nurse as well as the pregnancy in proper manner, that the defendants 1 and 2 used to administer the injunction as per the instructions of the Medical Officer and they used to assist the Medical Officer while performing the normal delivery, that the Medical Officer at Primary Health Centre would not perform complicated delivery because of non-availability of the facilities, that the defendants had rightly referred the said Jayalakshmi to the Government Hospital, Kumbakonam, that during the process of delivery, the pain and sufferings are normal and expected to continue till the delivery of a baby and

that may extent more than 18 hours, that the defendants 1 and 2 had monitored the said Jayalakshmi and since there was an improper labour pain, she was referred to Government Hospital, Kumbakonam and that 108 Ambulance service was not at all available during the relevant time

and the said facility was launched on 15.09.2008, just one month before the date of accident and by that time, more number of ambulance vehicles were not available for service.

15. The learned Counsel for the defendants 1 and 2 would further contend

that the Courts below have failed to properly appreciate the concept of medical negligence and the extent of liability of the defendants and reliance is placed on the decision of the Hon'ble Supreme Court in Martin F.D' Souza Vs. Mohd. Ishfaq reported in 2009(3) SCC 1, wherein it has been held that the test for determining negligence is that of an ordinarily competent doctor exercising and professing to the requisite skill, and that a doctor is not expected to possess the highest degree of expert skill and the relevant passages are extracted hereunder: A medical practitioner is not liable to be held negligent simply because things went wrong from mischance or misadventure or through an error of judgment in choosing one reasonable course of treatment in preference to another. There is a tendency to confuse a

reasonable person with an error free person. An error of judgment

may or may not be negligent. It depends on the nature of the error.

Also, now what is reasonable and what is unreasonable is a matter on which even experts may disagree. Also, they may disagree on what is a high level of care and what is a low level of care. A medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field. For instance, he would be liable if he leaves a surgical gauze inside the patient after an operation or operates on the wrong part of the body, and he would be also criminally liable if he operates on someone for removing an organ for illegitimate trade. The standard of care has to be judged in the light of knowledge available at the time of the incident and not at the date of the

trial. Also, where the charge of negligence is of failure to use some particular equipment, the charge would fail if the equipment was not generally available at that point of time.

16. The learned Special Government Pleader appearing for the fourth

defendant would reiterate the submissions made on behalf of defendants 1 and 2 and would further contend that, on 17.10.2008, one of the doctors attached to the Primary Health Centre had been deputed to the Governments Prevention is Better than Cure scheme, while another doctor was assigned to the Murungangudi Primary Health Centre. In such circumstances, the first defendant alone was present in the morning hours. It is stated that, after consulting the doctor over the phone, intravenous fluid, namely Ringer Lactate, was

administered to Jayalakshmi to address low blood volume and dehydration. As her condition appeared stable and satisfactory, she was allowed to return home. It is further submitted that Jayalakshmi returned to the Primary Health Centre at about 03.00 p.m., at which time the second defendant was also present, and upon examination, her condition was found to be normal. At about 05.30 p.m., the second defendant again consulted the doctor over the phone and was advised that, as the cervix had not dilated for normal delivery, and in view of the non-availability of advanced medical facilities at the Centre, Jayalakshmi should be referred to the Government Hospital, Kumbakonam. Accordingly, she was referred, and at that point of time, she was stated to be in a stable condition. The learned Special Government Pleader would further submit that the fourth

defendant, being only the administrative head of the District, cannot be held

personally or directly liable for any alleged fault or medical negligence on the part of the employees working under the District administration. However, both the

Courts below have failed to take note of this aspect and have erroneously fastened liability on the fourth defendant.

17. The learned Special Government Pleader would place reliance on the decision of the Hon'ble Supreme Court in INS MALHOTRA (Ms) Vs DR.A.KRIPLANI AND OTHERS reported in (2009)4 SCC 705 wherein the

> Hon'ble Apex Court, while considering the issue, has referred to the judgment of the Three - Judge Bench of the Supreme Court in State of Punjab vs. Shiv Ram reported in (2005)7 SCC 1 and the relevant passage is extracted hereunder: In State of Punjab v. Shiv Ram and Others [2005] 7 SCC 1, a three Judge Bench of this Court while dealing with the case of medical negligence by the doctor in conducting sterilisation operations, reiterated and reaffirmed that unless negligence of doctor is established, the primary liability cannot be fastened on the medical practitioner. In paragraph 6 of the judgment it is said: (page no. 7) "Very recently, this Court has dealt with the issues of medical negligence and laid down principles on which the liability of a medical professional is determined generally and in the field of criminal law in particular. Reference may be had to Jacob Mathew v. State of Punjab (2005) 6 SCC 1. The Court has approved the test as laid down in Bolam v. Friern Hospital Management Committee

(1957) 1 WLR 582: (1957) 2 AII ER 118 (QBD) popularly known as Bolam's test, in its applicability to India".

18. The learned Special Government Pleader would also place reliance on

the decision of the Hon'ble Supreme Court in M.A.Biviji Vs. Sunita and others reported in (2024)2 SCC 242, wherein it was held that a medical practitioner will be held liable for negligence only in circumstances when their conduct falls below the standards of a reasonably competent practitioner and the relevant passage is extracted hereunder: 37. As can be culled out from above, the three essential ingredients in determining an act of medical negligence are:

(1) a duty of care extended to the complainant,

(2) breach of that duty of care, and

(3) resulting damage, injury or harm caused to the

complainant attributable to the said breach of duty. However, a medical practitioner will be held liable for negligence only in circumstances when their conduct falls below the standards of a reasonably competent practitioner.

19. It is pertinent to note that in the above decisions, the medical

> negligence alleged against the medical practitioners were dealt with. But in the present case, the Courts below have held that since the third defendant was not available at the Primary Health Centre and he attended the medical camp in another village as directed by the higher officials, was not responsible. Hence, the above decisions cannot be made applicable to the case on hand.

20. The learned Counsel for the plaintiffs would place reliance on the

decision of this Court in V.Ramar Vs. Director of Medical and Rural Health Services, D.M.S., Chennai and others reported in 2010(1) MLJ 1409, wherein, in a similar factual scenerio, a pregnant woman was admitted in a Government Hospital and in the absence of a Doctor on duty, she was attended by nurses. Though she delivered a male child, her condition subsequently deteriorated resulting in the death of both the mother and the child. In the said circumstance, this Court has observed as follows:

> 11. The Constitution envisages the establishment of a welfare state as the federal level as well as the state level. In a welfare state the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health

centers which provide medical care to the persons seeking to avail those facilities.

12. Article 21 imposes an obligation on the state to safeguard the

right to life of every person. Preservation of human life is thus of paramount importance. The Government hospitals run by the State and the Medical Officers employed therein are duty bound to extend medical assistance for preserving human life. Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21 of the Constitution casts the obligation on the State to preserve life. The provision as explained by this Court in scores of decisions has emphasised and reiterated that position. A doctor at the Government hospital positioned to meet this state

obligation is therefore, duty bound to extend medical assistance for preserving life. Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained. Failure on the part of a Government hospital to provide timely medical treatment to a patient in need of such treatment amounts to violation of the right to life. In this context, I may also refer to Article 47 of the Constitution of India imposing a duty on the State to raise the standard of living and improve the public health.

13. In Parmanand Katara v. Union of India

(MANU/SC/0423/1989 : AIR 1989 SC 2039), the Hon'ble Supreme Court has held as under:- Every doctor whether at a government hospital or otherwise has the professional obligation to extend his services for

protecting life. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise cannot be sustained and, therefore, must give way. In this context, I may also refer to the decision in the case of Ranjit Kumar Das v. Medical Officer, ESI Hospital & Others, reported in III(1997) CPJ 336 (CDRC West Bengal) wherein it has been held that even the failure of the hospital to treat the card holder on the ground of absence of bed, would amount to negligence and therefore, adequate compensation must be provided. In a Canadian case

reported in 1964 (5), DLR (2d) 225, in the case of Lepine v. University Hospital Board, the Court held that the hospital was liable for negligence when, in the absence of nurse, a seven year old boy fall out of the window and suffered personal injuries. In (1952) 2 All ER 125 (CA), in the case of Jones v. Manchester Corporation, again it has been held that the hospital authority can be held liable if it fails to provide sufficient or properly qualified and competent medical staff for a unit.

21. In another case involving similar facts, in Thangapandi Vs. Director of

Primary Health Services, DMS, Teynampet, Chennai and others reported in 2011(1) MLJ 1329, relied on by the learned Counsel for the plaintiffs, a learned Judge of this Court, by referring to the decision in V.Ramar's case referred supra, has observed as follows: 22. The Maternity Hospital, without a qualified doctor, is like a school without teacher, transport vehicle without driver, police station without policemen and an aircraft without pilot. Right to health being a fundamental right as guaranteed under Article 21 of the Constitution of India, non-availability of doctor in a 24 hours Maternity Government Hospital is a serious aspect required to be viewed by the State Government seriously, which is running a welfare administration for the benefit of people. Mere existence of hospital is not sufficient. Any amount of defence, which could be raised by the Medical Department or Medical Officer of the fourth Respondent -

Primary Health Centre, will not be considered as satisfactory explanation. The Government is spending huge amount towards health care, which is bound to look into this aspect and bound to take serious remedial measures to see that the hospitals are having Medical Officers/Duty Doctors available at all times (24 hours). If the same is not ensured, right to health as enshrined in Article 21 of the Constitution of India will be a promise of unreality to the village people.

22. Now, adverting to the factual aspects of the case, it is not in dispute that

the first plaintiffs wife, Jayalakshmi, had been receiving treatment and antenatal guidance at the Primary Health Centre, Thirunageswaram, from 01.05.2008 to 17.10.2008. It is evident from the records that the expected date of delivery was noted as 14.10.2008 in certain records and as 15.10.2008 in others. It is also not in dispute that Jayalakshmi presented herself at the said Primary Health Centre on 17.10.2008 for delivery. However, the fact remains that, after administering intravenous fluid, namely Ringer Lactate, she was sent back home. It is further not in dispute that Jayalakshmi again returned to the Primary Health Centre at about 03.00 p.m. on the same day with labour pain. It is also admitted that, at about 05.30 p.m., the defendants 1 and 2 advised the first plaintiff to take his wife to the Government Headquarters Hospital, Kumbakonam, stating that the delivery could not be conducted at the Centre. According to the defendants, such referral

was made on the ground that the head of the foetus was not descending properly. It is also an admitted fact that the first plaintiff took his wife by auto-rickshaw to the Government Headquarters Hospital, Kumbakonam, and, upon arrival, the duty doctor, after examination, declared that she had been brought dead. In Ex.B4 - Verbal Autopsy Questionnaire for Investigation of Maternal Deaths, it has been recorded that the cause of death was Amniotic Fluid Embolism.

23. As rightly pointed out by the learned Counsel for the plaintiffs, the first

> defendant examined as D.W.1 has in her evidence admitted that no treatment was administered to the said Jayalakshmi during the period between 03.00p.m, and 05.30p.m, ie., untill she was referred to the Government Headquarters Hospital, Kumbakonam and the relevant portion is extracted hereunder for better appreciation: vA;fSila fl;rpgo md;iwa jpdj;jpy; ehA;fs; gpurtj;jpw;fhf ve;j rpfpr;ira[k; bra;atpy;iy. md;iwa jpdk; jpUk;gt[k; gpurt typ vLj;J gpurt typ vLj;J b$abyl;Rkp vA;fs; kUj;Jtkidapy; 3.00 kzpf;F rpfpr;irf;F te;jhh;. ..... kjpak; b$ayl;Rkp te;jBghJ gpurt typapy; nUe;jhh;. ehA;fs; rpfpr;ir vJt[k; bfhLf;ftpy;iy. ehA;fs; mtUf;F ve;j rpfpr;ira[k; mspf;fhky; 5.30 kzpf;F mDg;gptpl;Blhk;. ..... 5.30kzpf;F Bky; rpfpr;irf;fhf Fk;gBfhzk; khtl;l muR kUj;Jtkidf;F mtiu mDg;gp itj;Bjhk;. ..... ehd; mtiu

vA;fSila Muk;g Rfhjhu epiyaj;jpypUe;J tpLtpf;Fk;BghJ mtUf;F gpurt typ nUe;jJ. 17.10.2008 Bjjp Kd;ghf b $ayl;Rkpapd; tapw;wpy; nUe;j FHe;ij ed;whfj;jhd; nUe;jJ. vA;fs; kUj;Jtkidapy; (Muk;g Rfhjhu epiyaj;jpy;) gpurtk; ghh;f;f tUk; bgz;fSf;F gpurtk; ghh;f;Fk; trjp cs;sJ.

24. Upon further cross-examination, D.W.1 would say

> ehDk; 2tJ gpujpthjpa[k; kjpak; mDkjpj;j gpwF ve;j rpfpr;ira[k; mspf;ftpy;iy. ..... 3 kzpf;F b$ayl;Rkp rpfpr;irf;F tUk;BghJ mWit rpfpr;ir brajpUe;jhy; my;yJ bghpa kUj;Jtkidf;F clBd mDg;gpapUe;jhy; jha; my;yJ FHe;ijia fhg;ghw;w tha;g;g[cs;sJ vd;why; mWit rpfpr;ir bra;a[k; epiyapy; b$ayl;Rkp tutpy;iy. mt;thW mtUf;F mWit rpfpr;ir bra;jpUe;jhy; fz;og;ghf b $ayl;Rkpia fhg;ghw;wp nUf;fyhk;. ..... b$ayl;Rkp 17.10.2008 Bjjp fhiyapy; ghpBrhjidf;F te;jBghJ gpurt Bjjpapy;jhd; nUe;jhh;.

25. The third defendant as D.W.2 would admit

kjpak; 2 kzpapypUe;J 5 kzpf;Fs; kUj;Jth; Beuoahf rk;ke;jgl;l Behahspia ghh;;j;jpUe;jhy; BehahspiaBah, mtuJ FHe;ijiaBah fhg;ghw;wpapUf;fyhk; vd;why;

vdf;F bjhpahJ. .... Bkw;go b$ayl;Rkpf;F 1k; gpujpthjp gpBukh ve;jtpj rpfpr;ira[k; mspf;ftpy;iy>

26. D.W.2 in his chief examination would say

> ehd; me;j Bjjpapy; Muk;g Rfhjhu epiyaj;jpy; gzpapy; ny;iy. md;W Kuf;fA;Fo kUj;Jt KfhKf;F brd;Wtpl;Bld;. vdBt 17.10.2008 md;W 1-k; thjpapd; kidtp kUj;Jt MByhridf;fhf te;j tpguk; gw;wp vdf;Fj; bjhpahJ. Bkw;go b$ayl;Rkpf;F mg;BghJ gzpapy; cs;s 1-k; gpujpthjp gpBukh vd;w eh;Rk; ve;jtpjkhd rpfpr;ira[k; mspf;ftpy;iy. kUj;Jt MByhrid kl;Lk; t HA;fp mDg;gp cs;sdh;. vdBt, kw;bwhU brtpypah; 2-k; gpujpthjp Rjh vd;gth; md;W fhiy tpLg;gpy; nUe;Jtpl;L khiy 5 kzpf;F jhd; gzpf;F te;Js;shh;. ..... vdBt jpUehBf!;tuk; kUj;Jtkidapy; gzpg[hpe;j brtpypah; ahtUk; rpfpr;ir mspf;fhjjhy; 1-k; thjpapd; kidtp b $abyl;Rkp nwe;Jtpl;lhh; vd;W TWtJ fw;gidahd xd;whFk;.

27. In cross-examination, he would say

> fhiyapy; rpd;Bjh!ehd; vd;w kUe;ij b$ayl;Rkpf;F brYj;jpdhh;fsh vd;W vdf;F bjhpahJ. vd;dplk; kUj;Jt rpfpr;ir rk;ge;jkhf 1k; gpujpthjp 2 Kiw Bghdpy; bjhlh;g[bfhz;lhh;. kjpak; 2 kzpapypUe;J 5 kzpf;Fs; kUj;Jth; Beuoahf rk;ke;jgl;l Behahspia ghh;j;jpUe;jhy; BehahspiaBah, mtuJ FHe;ijiaBah fhg;ghw;wpapUf;fyhk; vd;why; vdf;F bjhpahJ. b$ayl;rkp fhiy 9.30 kzpastpy; Muk;g Rfhjhu epiyaj;jpw;F te;jBghJ gpurt typBahL te;jhh;. mth; gpwF kPz;Lk; kjpak; Muk;g Rfhjhu epiyaj;jpw;F te;jBghJ rpfpr;ir mspf;ftpy;iy

vd;W brhd;dhh;fs;.

28. As rightly pointed out by the learned Counsel for the plaintiffs, D.W.2

> in chief examination, has stated that he was not aware of the visit of the said Jayalakshmi to the Primary Health Centre for treatment. However, in the course of cross-examination, he has admitted that he was contacted

by the first defendant twice over the phone. Neither D.W.1 nor D.W.2 has elaborated upon the nature of the said telephonic conversations or the advise allegedly given by D.W.2.

29. As already pointed out, it is admitted by the defendants that the duty

Doctor viz., the third defendant had been deputed to attend a medical camp elsewhere. When a Doctor attached to a Primary Health Centre is deputed for other official duties, it is the responsibility of the authorities concerned to ensure that a qualified medical officer is made available in the hospital. A Primary Health Centre, which caters to the medical needs of the rural population, particularly in maternity cases, cannot be permitted to function without the presence of a Doctor. Failure to ensure the availability of a Doctor in the hospital, would amount to an institutional lapse on the part of the authorities.

30. As rightly contended by the learned Counsel for the plaintiffs, it is

significant to note that both the first defendant and the third defendant, have in their evidence admitted that no treatment was administered to the said Jayalakshmi between 03.00p.m., and 05.30p.m., and such an admission emanating from the person who was on duty at the relevant point of time, coupled with the evidence of the duty Doctor, who was not physically present, but was allegedly contacted through D.W.1 carries substantial evidentiary value and the same clearly establishes that the patient was left unattended for a considerable period despite having approached the hospital with labour pain, that too two or three days after the expected date of delivery, as stated by the defendants 1 to 3.

31. No doubt, the defendants have attempted to justify their conduct by

stating that, in certain cases, labour pain for some women may continue even for more than 18 hours and they were therefore waiting. Such an explanation cannot be accepted. Even if labour pain may persist for a

prolonged duration, it does not absolve the defendants of duty to properly examine the patient, continuously monitor her condition and provide appropriate medical care. When a pregnant woman approaches a hospital complaining of labour pain, it is the bounden duty of the medical staff either to provide necessary treatment or if the case requires specialised care, to promptly refer the patient to a higher medical centre.

32. In the case on hand, as already pointed out, the first plaintiff's wife was

advised to be taken to Government Headquarters Hospital, Kumbakonam, only at about 05.30p.m. Thus, despite the patient being present in the hospital from about 03.00p.m., no treatment was administered, and the referal was made only after a considerable delay. The delay in referring the patient to the Government Headquarters Hospital, Kumbakonam assumes considerable significance. In obstetric cases, timely medical intervention or prompt referral to a specialised hospital is of vital importance and any unexplained delay in taking such steps may endanger the life of both the mother and the child. Significantly, when the first plaintiff took his wife to the Government Headquarters Hospital, Kumbakonam, she was declared brought dead.

33. The learned Counsel for the defendants 1 and 2 as well as the learned

Special Government Pleader appearing for the fourth defendant, would submit that no postmortem examination was conducted on the body of the deceased Jayalakshmi and therefore, the exact cause of death has not been established. However, the materials on record would disclose that when the first plaintiff took his wife to the Government Headquarters Hospital, Kumbakonam, she was declared brought dead by the Doctor attached to that hospital. Once a patient is brought dead to a Government Hospital, it is for the hospital authorities

concerned to take appropriate steps in accordance with law, including informing the police and conducting a postmortem examination, if the circumstances so warrant. In the case on hand, it is not the contention of the defendants that the plaintiffs or his family members had objected to the conduct of a postmortem. Therefore, the mere absence of a postmortem examination cannot be put against the plaintiffs so as to defeat their claim for compensation.

34. When the evidence on record clearly establishes that the deceased had

approached the Primary Health Centre with labour pain and was left unattended for a considerable period before being referred belatedly, the absence of a postmortem examination by itself, cannot absolve the defendants from their negligence.

35. On a consideration of the entire evidence available on record, both the

trial Court as well as the first appellate Court have concurrently held that the defendants 1 and 2 were negligent in discharging their duties and that such negligence amounted to deficiency in service. Such findings are based on evidence on record including the admissions made by the defendants 1 and 3 and the defendants have not been able to demonstrate that the said findings suffer from perversity or are unsupported by the materials available on record.

36. It is pertinent to note that the first appellate Court on appreciating and

re-appreciating the evidence available on record, has come to a definite decision that the plaintiffs have proved their claim for compensation, concurring with the findings of the trial Court.

37. Since the defendants 1 and 2 were Government servants working in the

Primary Health Centre at the relevant point of time, the State is vicariously liable for the acts committed by them in the course of their employment. Hence, the direction issued by the Courts below directing the fourth defendant to pay compensation to the plaintiffs cannot be faulted with. However, considering the fact that the incident appears to have occurred primarily due the absence of a Doctor and the lack of proper institutional arrangements in the hospital, this Court is of the view that the liberty granted by the Courts below to recover the compensation amount from the defendants 1 and 2 requires modification.

38. It is well settled law that the right to life guaranteed under Article 21 of the Constitution of India includes the right to timely and adequate medical care. The Hon'ble Supreme Court in Paschim Banga Khet Mazdoorsamity and Others

Vs. State of West Bengal reported in AIR 1996 SC 2426, has specifically held

that State has constitutional obligation to provide adequate medical facilities to the people and that failure on the part of the Government hospital to provide timely medical treatment would amount to a violation of the right to life. In the present case, the first plaintiff's wife had approached the Government Primary Health Centre expecting necessary medical care at the time of delivery. The absence of a Doctor in the hospital and the delay in attending to the patient clearly demonstrate that the institutional mechanism expected to provide such care had failed. In such circumstances, the State cannot avoid its responsibility and is bound to compensate the victim's family. Further, the compensation awarded at Rs.5,00,000/- by the Courts below is reasonable and cannot be said to be excessive, particularly having regard to the prevailing economic conditions at the relevant point of time. Hence, the award of compensation of Rs.5,00,000/- in favour of the plaintiffs does not warrant interference.

39. In the light of the above discussion, while confirming the directions

> issued by the Courts below directing the fourth defendant to pay compensation to the plaintiffs, the decree is modified to the limited extent that the compensation amount shall be borne by the State, and no recovery shall be made from the defendants 1 and 2. Except for the above modification, the judgments and decrees of the Courts below are confirmed. Having regard to the facts and

circumstances of the case, this Court further helds that the plaintiffs are entitled to costs throughout.

40. In the result, the Second Appeals stand dismissed, confirming the

concurrent judgments and decrees of the Courts below, subject to the modification that the compensation amount shall be borne by the State and no recovery shall be made from the defendants 1 and 2. The plaintiffs shall be entitled to costs throughout. Consequently, the connected Miscellaneous Petitions are closed. 18.03.2026 NCC :Yes/No Index :Yes/No Internet : Yes/ No SSL To: 1.The Additional District Court, Fast Track Court, Kumbakonam,

2. The Additional Subordinate Court, Kumbakonam.

3. The Section Officer, VR Section, Madurai Bench of Madras High Court, Madurai.

K.MURALI SHANKAR,J.

SSL PRE-DELIVERY JUDGMENT MADE IN S.A.(MD).Nos.496 of 2022 and 737 of 2024 18.03.2026

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