

**\*THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**+ WRIT PETITION No.20752 OF 2007**

% 30—08—2018

# Smt.Mukkamula Anuradha

...Petitioner

vs.

\$ The Principal Secretary to Government,  
Minorities Welfare Department, Government of  
Andhra Pradesh, 'A' Block, Ground Floor,  
A.P.Secretariat, Hyderabad and 2 Others

... Respondents

!Counsel for the Petitioner : Dr.Bhaskara Mohan

^Counsel for Respondent No.1 : Government Pleader for  
Social Welfare (TS)

^Counsel for Respondent No.2 : Government Pleader for Medical,  
Health & Family Welfare (TS)

<Gist :

>Head Note :

? Cases referred

W.A.No.919 of 2016 dated 28.09.2016



IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

\* \* \* \*

WRIT PETITION No.20752 of 2007

Between:

Smt.Mukkamula Anuradha

...Petitioner

And

The Principal Secretary to Government,  
Minorities Welfare Department, Government of  
Andhra Pradesh, 'A' Block, Ground Floor,  
A.P.Secretariat, Hyderabad and 2 Others

... Respondents

**JUDGMENT PRONOUNCED ON: 30.08.2018**

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to see the fair copy of the Judgment? : Yes

**T.AMARNATH GOUD, J**

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**WRIT PETITION No.20752 OF 2007**

**ORDER:**

It is the case of the petitioner that her husband, Mukkamula Hari Prasad, while working as Driver in Minorities Welfare Department, consulted the doctor of Secretariat dispensary on 14.08.2006 for the small injury received by him on palm of his hand. During the course of treatment, the doctor injected a T.T. injection on the left gluteus region of the husband of the petitioner which resulted in developing serious health complications, due to reaction. Subsequently, though the husband of the petitioner took treatment in Government Hospital, Vanasthalipuram, Kamineni Hospital and Osmania General Hospital, Hyderabad, he could not survive and died on 07.09.2006 in Osmania Hospital. The doctors opined that the husband of the petitioner died with GASGANG disease which he got through the needle of the T.T. injection given by the doctor of Secretariat dispensary.

2. It is the further case of the petitioner that her husband is the sole breadwinner and due to his sudden demise, her family became destitute. The respondents assured the petitioner that they would provide her a job and also take steps to pay compensation. Though the petitioner made several representations to the respondents to provide her a job and pay the compensation as promised by them, the respondents did not take any action, except sanctioning an amount of Rs.25,000/- from the Chief Minister's Relief Fund towards medical expenses incurred by her. Challenging the

inaction of the respondents, as stated supra, the petitioner filed the present writ petition seeking a direction to the respondents to award an amount of Rs.10 lakhs for the death of her husband and also to provide her a government job.

3. As seen from the records, the deceased was healthy and had gone to the hospital with a minor complaint of a pain. However, he lost his life due to the negligence on the part of the government doctor. Also because of the death of the husband, the petitioner's family lost bread earner & love and affection of the deceased. The injection was the only invasive procedure which allowed the infection to enter the hand of the deceased. It took place due to the infected needle, which was supplied by the Government, which points to the careless and non-standard procedure performed by the government doctor. The husband of the petitioner died due to the infected needle provided by the government. Therefore, this is a case of sheer negligence on the part of the State Government - respondent.

4. Though there is no specific provision in law to pay either ex-gratia or compensation to the bereaved family, the case of the petitioner cannot be brushed aside without granting any relief. Welfare State exists not only to enable the people to eke out their livelihood but also to make it possible for them to lead good life. The laws are made for the people, but the people are not made for the law. In the present case, the State cannot disown its responsibility towards the petitioner.

5. It is necessary to refer to *ex-gratia* and compensation and, as per Oxford English Dictionary, they read as under:

**“*ex-gratia*:** (with reference to payment) done from a sense of moral obligation rather than because of any legal requirement.

**Compensation:** something awarded to compensate for loss, suffering, or injury.”

6. A Division Bench of this Court in W.A.No.919 of 2016, dealt with the case of an electrical worker who got electrocuted and lost his right hand up to shoulder while he was attending to repair work on electric pole, and by order dated 28.09.2016, directed the respondents therein to provide him a suitable employment at least on contingency basis, if not on permanent basis, based on his educational qualifications, apart from *ex gratia* amount.

7. Though the learned counsel for the petitioner has not placed any reliance to support the claim of the petitioner to seek compensation under a statute, this Court is *prima facie* of the opinion that the petitioner is entitled for compensation, in view of the negligent act on the part of the government doctor and the medicine found to be defective which led to the death of the husband of the petitioner.

8. So far as fixing of quantum of compensation is concerned, the closest statute which can be considered for grant of compensation is the Motor Vehicles Act, 1988.

9. The husband of the petitioner was 48 years old by the date of incident and he was working as Driver in Minorities Welfare Department. His income can be taken into consideration as

Rs.10,000/- per month, which comes to Rs.1,20,000/- per year. After deducting 1/3<sup>rd</sup> towards his personal expenses, the annual income would be Rs.80,000/- per year. The multiplier for the age of the deceased is '13' as per the ratio laid down by the Hon'ble Supreme Court in **Smt.Sarala Varma v Delhi Transport Corporation**<sup>1</sup>. Hence, the compensation comes to Rs.10,40,000/- (Rs.80,000/- X 13). The petitioner, being the wife of the deceased, is entitled for loss of consortium, loss of love and affection, funeral expenses and other expenses. An amount of Rs.50,000/- is allowable towards conventional charges as per the judgment of the Supreme Court in **Ramilaben Chinubhai Parmar v. National Insurance Co.**<sup>2</sup>. Thus, though the petitioner is entitled to a total compensation beyond Rs.10,00,000/-, since the petitioner claimed only a sum of Rs.10,00,000/- in the writ petition, this Court has restricted the compensation amount to Rs.10,00,000/- only.

10. Learned counsel for the petitioner submitted that the petitioner and the deceased blessed with two sons and they are well educated and are not dependants and that there are no other dependants in the family, except the petitioner.

11. Insofar as the claim of the petitioner to provide her a job is concerned, the same cannot be considered, after lapse of a long period, as this Court feels that granting compensation is sufficient to meet the ends of justice, in the facts and circumstances of the case.

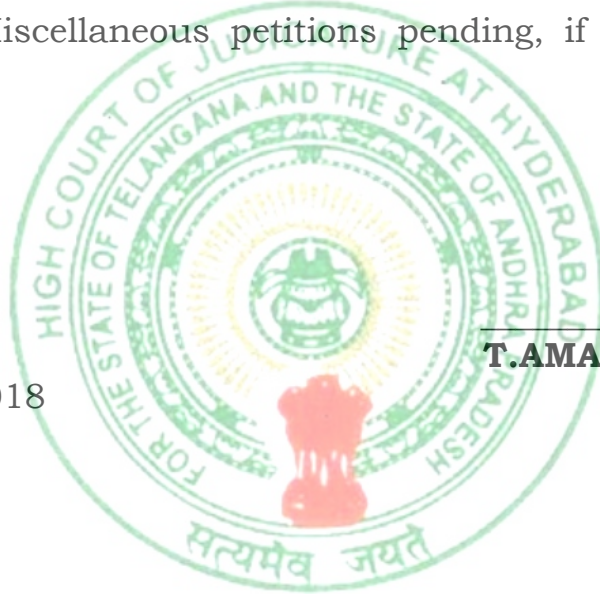
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<sup>1</sup> 2009(6) SCC 121

<sup>2</sup> LAWS(SC)-2014-4-67

12. The writ petition is allowed, directing the respondents to pay a sum of Rs.10,00,000/- (rupees ten lakhs only) to the petitioner towards compensation for the death of her husband, within a period of three months from the date of receipt of a copy of this order. It is needless to observe that though this writ petition was filed against the Government of Andhra Pradesh, the same shall be read as the State of Telangana, as the respondents now belong to the State of Telangana. The incident took place in Hyderabad and the husband of the petitioner rendered his services and died in Hyderabad and the direction hereby issued is to the State of Telangana. Miscellaneous petitions pending, if any, shall stand closed.

Date: 30-08-2018  
TJMR



**T.AMARNATH GOUD, J**