

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 12TH DAY OF SEPTEMBER 2023 / 21ST BHADRA, 1945

WP(C) NO. 14763 OF 2023

PETITIONER:

BY ADVS.
IPSITA OJAL
MARIYAMMA A.K.

RESPONDENTS:

DISTRICT LEGAL SERVICE AUTHORITY,
REPRESENTED BY ITS SECRETARY
THALASSERY, KANNUR, PIN - 670141

BY ADVS.
HARINDRANATH B G
AMITH KRISHNAN H.(K/000666/2015)
M.GOPIKRISHNAN(K/000841/2017)
LEJO JOSEPH GEORGE(K/357-C/2017)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.09.2023, ALONG WITH WP(C)NO.14769/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 14763 & 14769/23

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RESPONDENT :

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THALASSERY, KANNUR, PIN - 670101

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JUDGMENT

[WP(C) Nos.14763/2023, 14769/2023]

These matters are being disposed of together taking note of the analogous factual circumstances presented and the similarity in the reliefs sought for.

2. WP(C)No.14769/2023 has been filed by Smt.Rincy M.R.; while, WP(C)No.14763/2023 has been filed by her minor child being represented by her.

3. The petitioners say that they were both attacked by an individual with acid and have consequently suffered very grievous and vicious burn injuries. Their grievance is that even though they had applied for compensation under the Kerala Victim Compensation Scheme before the respondent, an Award has been issued in their favour only to a sum of Rs.5,00,000/- and Rs.2,50,000/- in favour of Smt.Rincy and respectively, which is egregiously insufficient going by the nature of injuries sustained by them. They thus pray that the impugned orders be set aside, to the extent to which they are assailed; and that the respondent – District Legal Services Authority, Thalassery

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(DELSA), be directed to reconsider their case in its proper perspective.

4. In response to the afore submissions made by Smt.Ipsita Ojal – learned counsel for the petitioners, Sri.B.G.Harindranath – learned counsel for the respondent, submitted that the impugned orders were issued taking note of all relevant and germane aspects; but that if this Court is so inclined, his client is willing to reconsider the matter, particularly taking note of the affirmative declarations of the Honourable Supreme Court in **Laxmi v. Union of India** [(2014) 4 SCC 427] and **Parivartan Kendra v. UOI** (WP(C)No.867 of 2013) (AIR 2015 SCW 6597).

5. I have examined the impugned orders and there is no doubt that the DELSA has found full empathy and concern for the plight of the petitioners. The only question is whether they were obliged to give larger compensation to the petitioners, or whether the amounts now awarded are sufficient and apposite.

6. I have gone through the nature of injuries sustained by the petitioners and it is indubitable that they are vicious and extremely grave. Smt.Rincy has suffered more than 50% burn

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injuries on her face; while is living with serious scars on his face, neck and back. To exacerbate, is a permanently disabled child suffering from mental retardation and seizure disorder; and am hence, certain that all these aspects ought to have been adverted to by the DELSA in its proper perspective, while issuing the impugned orders.

7. The law relating to reparation is now well-settled. It has to be adequate and commensurate to the detriment caused to the parties. A specific finding to this effect, based on all necessary and crucial aspects ought to have found place in the orders impugned; but to that extent, I am of the view that it is wanting. I do not propose to speak any further because, am certainly of the view that the entire matter requires to be reconsidered by the DELSA in its true perspective.

8. That said, this Court is aware that the amounts awarded have already been disbursed to the petitioners; and therefore, what is now remaining is consideration of escalation, if found eligible.

In the afore circumstances and for the reasons above, I

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order this Writ Petition and direct the DELSA to reconsider the claim of the petitioners strictly from the angle of escalation of the amounts already granted, adverting to all relevant aspects and after affording them necessary opportunity of being heard; thus culminating in an appropriate fresh order on this aspect alone, as expeditiously as is possible, but not later than four months from the date of receipt of a copy of this judgment.

RR

Sd/ -
DEVAN RAMACHANDRAN
JUDGE

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APPENDIX OF WP(C) 14769/2023

PETITIONER EXHIBITS

- Exhibit P1 COPY OF THE FIR IN CRIME NUMBER 1374 OF 2015 WAS REGISTERED BY THE PARIYRAM MEDICAL COLLEGE POLICE STATION OF KANNUR DISTRICT ON 25-12-2015
- Exhibit P2 TRUE COPY OF THE JUDGMENT IN SC 782 OF 2017 DATED 7-9-2019 OF THE COURT OF SPECIAL JUDGE FOR THE TRIAL OF OFFENCES AGAINST WOMEN AND CHILDREN, THALASERRY
- Exhibit3 TRUE COPY OF THE ORDER DATED 5-4-2022 PASSED BY THE RESPONDENT
- Exhibi P4 TRUE COPY OF THE ACCIDENT CUM WOUND CERTIFICATE ISSUED TO THE PETITIONER BY THE PARIYARAM MEDICAL COLLEGE HOSPITAL DATED 24-12-2015
- Exhibit P5 TRUE COPY OF THE DISCHARGE CERTIFICATE OF PETITIONER
- Exhibit P6 TRUE COPY OF THE DISABILITY CERTIFICATE DATED 28-03-2018
- Exhibit P7 TRUE COPY OF THE FUTURE TREATMENT PLAN DATED 13-02-2023 ISSUED BY DR.SUBRAMANIA IYER, PROFESSOR & HOD, PLASTIC AND RECONSTRUCTIVE SURGERY AT AMRITHA INSTITUTE OF MEDICAL SCIENCES, ERNAKULAM
- Exhibit P8 TRUE COPY OF THE ESTIMATE CERTIFICATE DATED 13-02-2023
- Exhibit P9 TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER

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- Exhibit P3 TRUE COPY OF THE ORDER DATED 5-4-2022 PASSED BY THE SECOND RESPONDENT
- Exhibit P4 TRUE COPY OF THE ACCIDENT CUM WOUND CERTIFICATE ISSUED TO THE SECOND RESPONDENT BY THE PARIYARAM MEDICAL COLLEGE HOSPITAL DATED 24-12-2015
- Exhibit P5 TRUE COPY OF THE DISCHARGE CERTIFICATE ISSUED BY FATHER MULLERS MEDICAL COLLEGE, MANGALORE TILL 29-01-2016
- Exhibit P6 TRUE COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE MEDICAL BOARD OF THE GOVERNMENT DISTRICT HOSPITAL KANNUR
- Exhibit P7 TRUE COPY OF THE FUTURE TREATMENT PLAN DATED 13-02-2023 ISSUED BY DR.SUBRAMANIA IYER, PROFESSOR & HOD, PLASTIC AND RECONSTRUCTIVE SURGERY AT AMRITHA INSTITUTE OF MEDICAL SCIENCES, ERNAKULAM
- Exhibit P8 TRUE COPY OF THE ESTIMATE ASSESSMENT OF EXPENDITURE FOR PETITIONER ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCES AND RESEARCH CENTRE ON 13-02-2023