

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO.50649 OF 2017 (LB-BMP)

BETWEEN:

SMT. LAKSHMI C. SHEKHAR
W/O. MADHUSUDHAN,
AGED ABOUT 42 YEARS,
R/O.#69/2, 12TH CROSS,
3RD BLOCK, THYGARAJANAGAR,
BENGALURU.

...PETITIONER

(BY SRI RAJA L., ADVOCATE)

AND:

1. THE COMMISSIONER
BRUHATH BENGALURU MAHANAGARA PALIKE,
HUDSON CIRCLE, SAMPANGI RAMA NAGAR,
AND ALSO AT N.R. SQUARE,
AVENUE ROAD, BENGALURU-02.
2. THE JOINT COMMISSIONER
BRUHATH BENGALURU MAHANAGARA PALIKE,
HUDSON CIRCLE, SAMPANGI RAMA NAGAR,
& ALSO AT N.R. SQUARE,
AVENUE ROAD, BENGALURU-02.
3. THE CHIEF ENGINEER
BRUHATH BENGALURU MAHANAGARA PALIKE,

HUDSON CIRCLE,
SAMPANGI RAMA NAGAR,
& ALSO AT N.R. SQUARE,
AVENUE ROAD, BENGALURU-02.

...RESPONDENTS

(BY SRI.S.H.PRASHANTH, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO PAY THE COMPENSATION OF RS.14,00,000/- ON ACCOUNT OF DEATH OF HER SON C.PUJIT ON THE GROSS NEGLIGENCE ON THE PART OF THE RESPONDENTS AND ETC.

THIS PETITION, COMING ON FOR FURTHER DICTATION, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

On 8.3.2017 at 8.45 a.m., when the son of the petitioner namely C.Pujit, who was aged 14 years was proceeding on the two wheeler on 30.03.2017 along with his sister from his home towards Netkalappa Circle towards N.R.Colony, at that point of time, a branch of the tree standing suddenly broke down and fell on the petitioner's son due to which he sustained severe injuries on the head and succumbed to the said injuries.

2. The FIR was lodged by the petitioner/father of the deceased before the jurisdictional Police Station against the

respondent-BBMP. The Police registered the case as UDR No.005/2017. Thereafter, the petitioner approached the respondent-BBMP claiming compensation and the expenses incurred for the treatment of the deceased son stating that the accident was caused due to the negligence of the respondent-BBMP in not maintaining the trees standing on the public road.

3. The respondent-BBMP paid a sum of Rs.2,00,000/- towards full and final settlement towards the compensation. Petitioner being not satisfied with the quantum of compensation awarded by the respondent-BBMP has filed this writ petition.

4. The learned counsel appearing for the petitioner submits that the deceased was aged about 14 years and was studying in 8th standard and he had a bright future. Whereas, the compensation awarded by the respondent-BBMP is very meager and sought for enhancement of the compensation.

5. The learned counsel appearing for the respondent-BBMP submits that the accident occurred due to the act of the God and in the absence of any negligence on the part of the

respondent-BBMP, the amount of compensation paid to the petitioner is just and proper.

6. I have examined the submission made by the learned counsel appearing for the parties.

7. It is undisputed that the son of the petitioner died due to the fall of a branch from a standing tree on a public street and though the untoward incident can be said to be an act of god, the respondent BBMP was under an obligation to maintain the trees and also take steps to remove the weak branches from the standing trees to avoid untoward incident. Hence, the respondent BBMP cannot escape its liability to pay just and proper compensation contending that the incident occurred due to an act of god.

8. The petitioner's son was aged about 14 years and studying in VIII standard and had a bright future as on the date of the alleged incident. The Hon'ble High Court of Delhi in *Varinder Prasad v BSES Rajdhani Power Limited* (W.P.(C) 8924/2007) wherein the boy aged 10 years died due to the

collapsing of the shed (shajja) of a house and the said incident was attributed to the negligence of the authorities, awarded a global compensation of Rs.15,26,000/-.

9. The fact that the deceased boy had a bright future and in all probability, the petitioner would have been dependent on him financially in future, it would be appropriate to award compensation of Rs.8,00,000/- in addition to Rs.2,00,000/- already paid to the petitioner.

10. The respondent BBMP to pay the balance amount of Rs.8,00,000/- (Rupees eight lakhs only) without any interest to the petitioner within a period of eight weeks from the date of receipt of certified copy of this order.

Sd/-
JUDGE

bvk/HR