

Kumari

Vs.

State of T.N. and others

Civil Appeal No. 122 of 1992

(M.H. Kania, Kuldip Singh JJ)

14.01.1992

JUDGEMENT

1. Special leave granted.
2. Six years old son of the appellant died. as a result of falling in a ten feet deep sewerage tank in the city of Madras. The tank was not covered with a lid and was left open. The appellant filed a petition under Article 226 of the Constitution of India before the Madras High Court seeking a writ in the nature of mandamus directing the respondents to pay Rs. 50,000/- as compensation to the appellant. The High Court dismissed the writ petition on the ground that in writ jurisdiction it was not possible to determine as to which of the respondents was negligent in leaving the sewerage tank uncovered.
3. In the facts and circumstances of this case we set aside the High Court judgment and direct that respondent No. 1, the State of Tamil Nadu shall pay to the appellant a sum of Rs. 50,000/- (Rupees fifty thousand) with interest at 12% per annum from January 1, 1990 till the date of payment. The amount shall be paid within six weeks from today. It will be open to the State of Tamil Nadu to take appropriate proceedings to claim the said amount or any part thereof from any of the respondents or any other authority which might be responsible for keeping the sewerage tank open. The claim, if made, will be decided in accordance with law. The appeal is allowed in the above terms. There will be no order as to costs.

Appeal allowed.

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