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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

+ **W.P.(C) 860/2012**

Between: -

GEETA DEVI

W/O SH. MUKESH KUMAR

R/O: PLOT NO. 7, 23 BLOCK,

NEAR POST OFFICE, TILAK NAGAR,

NEW DELHI-110018

.....PETITIONER

(Through: Mr. Ankit Jain, Mr. Brijesh Chaudhary, Mr. Madhav Bhatia, Mr. Shreyas Shankar Joshi, Advocates. Mr. Jai Bansal, Mr. Abhishek Verma, Advvs.)

AND

GOVT OF NCT OF DELHI

THROUGH IT'S SECRETARY

5-SHAM NATH MARG,

DELHI

.....RESPONDENT NO.1

MUNICIPAL CORPORATION OF DELHI

THROUGH IT'S COMMISSIONER

TOWN HALL, CHANDNI CHOWK,

DELHI-110006

.....RESPONDENT NO.2

MINISTRY OF SOCIAL JUSTICE & ENV.

ROOM NO.609,

'A', WING, SHASTRI BHAWAN,

DR. RAJENDRA PRASAD ROAD,
NEW DELHI-110001 (INDIA),
GOVT. OF INDIA,
THROUGH ITS DEPUTY SECRETARY (CDN.)

.....RESPONDENT NO.3

ANIMAL HUSBANDRY,
KRISHI BHAVAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI-110001
THROUGH ITS SECRETARY

.....RESPONDENT NO.4

NEW DELHI MUNICIPAL COUNCIL,
PALIKA KENDRA,
PARLIAMENT STREET,
NEW DELHI -110001
THROUGH ITS CHAIRMAN

.....RESPONDENT NO. 5

DELHI DEVELOPMENT AUTHORITY
VIKAS SADAN, INA
NEW DELHI
THROUGH ITS CHAIRMAN

.....RESPONDENT NO. 6

UNION OF INDIA
THROUGH THE SECRETARY
MINISTRY OF ENVIRONMENT FORESTS
AND-CLIMATE CHANGE
(ANIMAL WELFARE DIVISION)

.....RESPONDENT NO. 7

ANIMAL WELFARE BOARD OF INDIA
13/1, 3RD SEAWARD ROAD,
VALMIKI NAGAR, THIRUVANMIYUR,
CHENNAI - 600041
EMAIL: AWBI@MD3.VSNL.NET.IN
THROUGH ITS CHAIRMAN

ALSO AT:
CAMP OFFICE AT GURGAON
3767, SECTOR 23, GURGAON 122017

.....RESPONDENT NO. 8

(Through: *Ms. Sonia Arora, Adv. for GNCTD.*
Mr. Arun Birbal, Mr. Varun Gupta, Adv. for DDA.
Ms. Pratima N. Lakra, CGSC with Mr. Chandan Prajapati, Ms. Yashika Garg, Adv. for R-5 and 7.
Mr. Ranjeet Panday, SC for MCD with Ms. Mansha, Mr. Surya Ketu Tomar, Adv. .)

% Reserved on: 14.08.2024
Pronounced on: 26.09.2024

J U D G M E N T

In the instant writ petition, the Court is called upon to consider a claim for compensation of Rs. 50 lakhs, emanating from the tragic death of a 5-month-old infant child, namely Dewan Singh (*hereinafter* “deceased”) who was fatally bitten by a dog.

2. The facts of the case would exhibit that the petitioner is the mother of the deceased, who was residing at plot No.7, 23 Block, near Post Office, Tilak Nagar, New Delhi-110018, along with her family comprising of herself, her husband, two daughters, namely Manisha (6-year-old) and Ninnu (2-year-old) and the deceased son.

3. On the fateful day of 16.08.2007, at around 6.15 A.M., when the petitioner’s kids were sleeping in the house, a stray dog entered their room and started attacking the deceased. Upon realising the disturbance so made, the elder daughter, namely Manisha woke up and saw the dog mauling the deceased. She raised an alarm and called for help from the petitioner’s husband, who had gone out of the house to fetch water. By the time the petitioner and her husband rushed in, the

dog had already severely injured the deceased's eyes, nose and cheeks. It is alleged that as soon as the husband of the petitioner saw the dog, he picked up the broomstick and started hitting the dog, who also tried to attack him but subsequently ran away.

4. Thereafter, the deceased was immediately rushed to Deen Dayal Upadhyay Hospital, where he was admitted to the Intensive Care Unit (ICU) but unfortunately, he succumbed to the injuries and died. A complaint *vide* DD No.37A dated 16.08.2007 was recorded by the ASI of Police Station Tilak Nagar, West Delhi indicating that the body of the deceased was handed over to the parents.

5. On 04.04.2008, a legal notice was sent by the petitioner to respondent No.1-Government of National Capital Territory of Delhi (*hereinafter* "GNCTD") and respondent No.2-Municipal Corporation of Delhi (*hereinafter* "MCD") seeking compensation to the tune of Rs.5,00,000/-.

6. The petitioner, thereafter, has filed the instant petition to agitate her grievance, primarily seeking the relief of compensation.

7. Learned counsel appearing on behalf of the petitioner, submitted that it is an incontrovertible fact that the petitioner's infant child was fatally bitten by a stray dog, resulting in his unfortunate death. He contended that the incident in question occurred as a direct consequence of the negligence on the part of the respondents and therefore, the respondents must be held liable for the negligence.

8. He further emphasized that despite the sterilization measures purportedly undertaken by the MCD, the population growth of stray dogs remains a prevailing concern in nearly all the streets and colonies across the city. He averred that the respondents have a duty to ensure that the areas inhabited by humans are adequately protected from any threats posed by street or stray dogs. According to the petitioner, the

dereliction of this duty has resulted in the violation of the fundamental right to life enshrined under Article 21 of the Constitution of India.

9. Learned counsel then drew the attention of the Court to Section 399 of the Delhi Municipal Corporation Act, 1957 (*hereinafter* “DMC Act”), which casts a duty on the MCD and its Commissioner to register and regulate dogs within its jurisdiction. According to him, the said measures have not been adopted by the MCD. He further submitted that the Central Government has established the Animal Birth Control (Dogs) Rules, 2001 (*hereinafter* “Rules of 2001”) and in adherence to the same, the MCD is required to play a significant role. According to these rules, the MCD is obligated to establish a sufficient number of dog pounds, including kennels and shelters managed by animal welfare organizations, and to provide an adequate number of dog vans equipped with ramps for the capture and transportation of street dogs. Each van must be staffed with a driver and two trained dog catchers, and an Ambulance-cum-Clinical Van must be provided as a mobile centre for the sterilization and immunization of dogs.

10. Additionally, he contended that under Sub-Rule (2) of Rule 6 of the Rules of 2001, MCD is mandated to sterilize and immunize street dogs in coordination with animal welfare organizations, private individuals, and the local authority but no such measures have been put in place which may help in dealing with the incidents at hand. He specifically highlighted Rule 7 of the said Rules which outlines a detailed method of capturing and sterilizing dogs. Learned counsel further drew sustenance from the Animal Birth Control Programme (for Stray Dogs), approved by the Executive Committee of respondent No.8-Animal Welfare Board of India (*hereinafter* “AWB”), on January 13, 2001, which encapsulates the organizational aspects

including the capture of dogs, handling of critically ill or rabid dogs, preoperative observations and the maintenance of records.

11. He placed reliance on the decisions of the Supreme Court in the cases of *D.K. Basu v. State of West Bengal*¹, *Nilabati Behara v. State of Orissa*², *Common Cause, A Registered Society v. Union of India*³, the decision of this Court in *Shakuntala v. State (NCT of Delhi)*⁴, the decision of the High Court of Chhattisgarh in *Shobha Ram v. State of CG & Ors*⁵, *State of CG v. Bhaiya Lal Gond*⁶ and *Vijay Das Manikpuri v. State of CG & Ors.*⁷, the decision of the High Court of Karnataka in *Yusub v. State of Karnataka*⁸, the decision of the High Court of Bombay in *Maruti Shrishailya Hale & Ors. v. The Commissioner, Sangli Miraj Kupwad Corporation & Ors.*⁹ and the decision of the High Court of Orissa in *Bibhuti Charan Mohanty v. State of Odisha*¹⁰.

12. Learned standing counsel for GNCTD has contended that the control and monitoring of stray dogs in the territory of Delhi is governed by the MCD as the DMC Act and the Rules of 2001 enjoins the duty on it to manage, register and control dogs in its territorial jurisdiction. He also submits that the MCD is the concerned respondent in the present case and there is no negligence or obligation on the part of GNCTD with respect to the petitioner's case. He further averred that GNCTD has neither received any representation or request nor does it have any role in acceding to such a request as the primary duty of care and consideration is of the MCD.

¹ (1997) 1 SCC 416

² (1993) 2 SCC 746

³ (2018) 5 SCC 1

⁴ 2009 SCC OnLine Del 1736

⁵ W.P.(C) 1856/ 2018

⁶ 2023:CGHC:11353-DB

⁷ W.P.(C) 4652/ 2019

⁸ 2022 SCC OnLine Kar 1721

⁹ 2018 SCC OnLine Bom 7549

¹⁰ 2023 SCC OnLine Ori 6660

13. Learned standing counsel for the MCD vehemently denied all the averments made by the petitioner and raised objections with respect to the maintainability of the petition claiming that the petitioner has an alternative remedy before the Civil Court. He contended that there was an inordinate delay as the petitioner filed the present petition 5 years after the date of the incident. He further averred that the present petition is not maintainable against it as the incident admittedly took place within the premises of the petitioner. It is also averred that if the petitioner and her husband had taken the requisite precautionary measures, such an incident could have been prevented. He also stated that the petitioner herself has not been able to correctly establish the facts of the incident as her position in the petition and the newspaper clippings placed on record are contradictory to each other. It was also contended that the MCD has been taking due action as per the guidelines and respective policies regarding management and control of dogs signifying that there is no negligence or lapses on the part of the MCD officers. It was further stated that on receiving the complaint of biting a stray dog or injured/ailing stray dog, a dog-catching team is sent to capture those dogs as per guidelines for the management of unsterilized dogs by the AWB. As per policy, only unsterilized stray dogs are picked up by the MCD staff and handed over to the concerned NGO, who after sterilization and immunisation release them in the same locality. Lastly, it was contended that no negligence can be attributed to the MCD as no complaint prior to the occurrence of the incident was received by the said respondent in the locality where the incident occurred.

14. At this stage, the Court takes note of the order dated 15.01.2015, whereby, the Court ordered to implead Delhi

Development Authority (*hereinafter* 'DDA') and Union of India through the Secretary, Ministry of Environment Forests & Climate Change (Animal Welfare Division) as respondents, and the order dated 16.05.2015, *vide* which the Court impleaded Animal Welfare Board of India as a respondent. The newly impleaded authorities were directed to file affidavits addressing the controversy.

15. The respondent No. 4-Department of Animal Husbandry, Dairying, and Fisheries had submitted, through an affidavit, that it has been wrongly impleaded as there lies no cause of action against the said respondent as it only deals with matters relating to livestock production, preservation and improvement of stocks, dairy development etc. and has no say in schemes relating to the control of stray dogs which is a responsibility of the civic bodies.

16. Learned counsel appearing for respondent No.6-DDA contended that no allegation has been averred against the DDA in the instant writ petition. Further, it was also stated by him that this case *vide* order dated 04.09.2015, was sent to the Division Bench of this Court, wherein a writ petition being *Nyaya Bhoomi v. GNCTD & Ors.*¹¹ was pending in the nature of public interest litigation. However, *vide* order dated 23.03.2016, this case was sent back by the Division Bench with a clarification that the matter is solely confined to the issue of grant of compensation to the petitioner.

17. It was further submitted that the DDA was not an original party to this writ petition, as initially filed, and was made a respondent along with certain other bodies/organizations, *vide* order dated 15.01.2015. It was then contended that Rule 6 of the Rules of 2001 stipulates that an adequate number of kennels and veterinary hospital facilities shall be ensured and managed by the local authority i.e., MCD and animal

¹¹ WP (C) No. 3346/2015

welfare organizations. According to learned counsel, implementation of these rules falls under the purview of the concerned local body and DDA is not statutorily duty-bound to control dogs in a locality.

18. Learned counsel appearing on behalf of respondent No.8-AWB asserted that the street dog issue i.e., lawful, scientific, and rational methodology of reducing their population and eliminating the threat of rabies and reducing man-animal conflict is already before the Supreme Court in various Special Leave Petitions.

19. Mr. R.K Saini was appointed as the *amicus curiae* in the present matter *vide* order dated 15.12.2014 and had submitted a report dated 15.01.2015. The report highlights the alarming proportions of the stray dog menace and the increasing population in Delhi. It also stated some solutions adopted by other cities in India and recommended that the same be also adopted in Delhi.

20. I have considered the submissions made by learned counsel appearing for the parties and perused the record.

21. At the outset, the Court takes note of the order dated 23.03.2016, whereby, the issue in the instant writ petition was confined only to the extent of prayer for compensation to be awarded to the petitioner.

22. The stray dog menace and the responsibility of maintaining stray dogs in a safe condition is a subject matter of various petitions across High Courts and the Supreme Court. Recently, the Supreme Court in the case of *Animal Welfare Board of India & Anr. v. People for Elimination of Stray Troubles & Ors.*¹², while acknowledging the evolving legal landscape aimed at protecting animals from unnecessary pain and suffering, particularly canines, closed the various proceedings in light of the newly notified Animal Birth

¹² Civil Appeal No: 5988/2019 etc.

Control Rules, 2023. The Court emphasized that the parties retain the right to seek remedies through appropriate legal forums if future circumstances so require. The Court also observed that there is a stern prohibition against the indiscriminate killing of dogs, underscoring the fact that all authorities must strictly adhere to the letter and spirit of the prevailing legislation. Highlighting compassion as a fundamental Constitutional value, the Court reiterated the obligation of authorities to protect and care for all living beings while maintaining a balance between human lives and dogs.

23. Therefore, given the submissions made by learned counsel for the parties, the foremost issue that arises for consideration is whether, under Article 226 of the Constitution of India, a prayer seeking compensation for the death of a person due to a dog bite, can be entertained by the Writ Court?

24. It is a well-established law that the Constitutional Courts, in exercise of their jurisdiction under Articles 32 and 226 of the Constitution of India, are empowered to award compensation as a public law remedy in cases where there is a violation of human rights or fundamental rights, constituting a Constitutional tort. This has been categorically held in the decisions of the Supreme Court in *Nilabati Behara*, *D.K. Basu* and *MCD v. Uphaar Tragedy Victims Assn*¹³.

25. This Court in *Shagufta Ali v. Govt. of NCT Delhi & Ors*¹⁴, while adjudicating on a plea seeking compensation for the death of the husband of the petitioner therein due to electrocution, examined a catena of decisions and held that “*public law remedy can be resorted to and monetary compensation can also be awarded in cases of violation of Article 21 of the Constitution of India.*”

¹³ (2011) 14 SCC 481

¹⁴ 2024 SCC OnLine Del 6250

26. Recently, in *Munna & Anr. v. MCD & Anr.*¹⁵, this Court reaffirmed its precedent established in *Shagufta Ali*, asserting that in instances of infraction of Article 21 of the Constitution of India, aggrieved individuals may seek redressal through writ proceedings, thereby triggering the invocation of principles of public law. The Court further elucidated that in appropriate cases, the award of monetary compensation is permissible as a form of relief.

27. The present petition, however, relates to the death of an infant due to mauling and biting by a stray dog. The Constitutional Courts, on several occasions, have granted compensation to victims of fatal incidents involving stray animals, such as dogs, cattle, etc.

28. This Court in *Shakuntala* was adjudicating a plea, whereby, the petitioner therein, sought compensation for the death of her husband, who was fatally injured after being attacked by stray bulls during a street fight while working as a fruit vendor. The petitioner therein alleged negligence on the part of the MCD for failing to prevent stray bulls from roaming freely on the streets. The Court, while invoking the principle of *res ipsa loquitur*, held that the facts presented by the petitioner were sufficient to shift the burden of proof on the MCD. The MCD also failed to provide any evidence absolving itself of liability and therefore, the Court granted compensation of Rs. 10,00,000/- to the petitioner therein.

29. In *Shobha Ram*, the High Court of Chhattisgarh entertained a plea seeking compensation for the death of the petitioner's wife due to a bite by a rabid dog. The High Court referred to the decisions of the Supreme Court in *Nilabati Behara* and *D.K. Basu* to award a sum of Rs. 10,00,000/- to the petitioner.

30. In *Bhaiya Lal Gond*, a Division Bench of the High Court of

¹⁵ W.P.(C) 4202/2008

Chhattisgarh was hearing four appeals by the State, challenging the compensation granted by the learned Single Judge for the death caused by rabies infection due to stray dog bites. The Division Bench, while allowing all appeals, modified the orders reducing the grant of Rs 10,00,000/- to an *ex-gratia* amount of Rs 6,50,000/-. The Court held that despite all efforts of the State authorities to take due care and precaution, the unknown fear or illiteracy or casual approach by the general public allowed the accident to turn fatal.

31. In *Vijay Das Mankinpuri* also, the High Court of Chhattisgarh was considering another case, wherein, the petitioner sought compensation for the death of his 7-years-old daughter due to a stray dog bite while she was returning home from school. The Court while relying on the decision of the Division Bench in *Bhaiya Lal Gond*, awarded an *ex gratia* amount of Rs 6,50,000/- to the petitioner.

32. In *Maruti Shrishailya Hale*, the Division Bench of the High Court of Bombay was deciding a prayer for compensation by the petitioners being parents of a 5-year-old boy, who was attacked and killed by stray dogs within the limits of the Sangli-Miraj-Kupwad Municipal Corporation. The petitioners therein, alleged negligence on the part of the Municipal Corporation and the State Government in controlling the stray dog menace, claiming a violation of their son's fundamental right under Article 21 of the Constitution of India. The Court found that there was a clear failure on the part of the Municipal Corporation and the State Government to protect the citizens from the stray dog menace, which resulted in the violation of the fundamental rights of the deceased child under Article 21 of the Constitution of India. Consequently, the Court directed the State Government and the Municipal Corporation to jointly and severally pay interim compensation to the petitioners, with the final amount of

compensation to be decided upon the completion of further proceedings. The Division Bench also took note of the pertinent observations made in *Nilabeti Behra* to uphold that the monetary compensation awarded under Article 32 by the Supreme Court or Article 226 by High Courts is a public law remedy that holds the State strictly liable for the violation of fundamental rights and unlike private law cases based on tort, where sovereign immunity may apply, this public law remedy does not allow for such defense. This distinction is crucial for understanding the basis on which the compensation in appropriate cases can be awarded.

33. In *Bibhuti Charan Mohanty*, a Public Interest Litigation was filed seeking direction to manage, and regulate the presence of stray dogs in residential areas to safeguard human lives and that a compensation of Rs. 10 lakhs be granted to the family of the deceased child, who while playing by the side of his house adjacent to the public road, was attacked by four roving dogs furiously. While surveying some of the aforementioned decisions, the High Court of Orissa granted compensation of Rs 10,00,000/-.

34. It is, therefore, a well-settled principle that in cases involving the violation of Article 21 of the Constitution of India, individuals are entitled to seek remedies under public law, including the relief for grant of monetary compensation.

35. As a corollary, the issue which arises at this juncture pertains to how and when the Court, while exercising its powers under Article 226 of the Constitution to award compensation, can apply the principle of *res ipsa loquitur* in cases involving alleged negligence of the State?

36. This Court in *Shagufta Ali*, examined in no uncertain terms the circumstances warranting applicability of the legal maxim *res ipsa*

loquitur in cases of death due to negligence by the State and clinches the issue of the circumstances when the Court, while exercising discretionary powers to grant compensation under Article 226, would apply the maxim to ascertain the liability of the State taking into consideration the specific facts and averments made in each case. It was held that when the State instrumentalities are directly and solely responsible for an incident, and where the cause and fact of death are undisputed, the maxim *res ipsa loquitur* would come to rescue the case of the claimant. This principle apparently permits the presumption of negligence by the official respondents based on the circumstances of the case.

37. If the facts and contentions in the present case are perused in the context of the legal position explicated in the preceding paragraphs, it would show that the unfortunate incident occurred in the room of the petitioner's residence when she and her husband were not present. The deceased was in a room with his sisters when the dog entered and attacked him. Thereafter, he was rushed to Deen Dayal Upadhyaya Hospital where he was operated and subsequently, succumbed to injuries. The medical records placed on record clearly indicate that the deceased died due to the injuries *ante-mortem* to dog bites. The fact that the deceased died due to a dog bite is an undisputed fact but the allegation that the same was a result of lapse and negligence on the part of it, is denied by the MCD and the same must be established by pressing in aid the accurate and descriptive facts or documents on record. The mere fact that the deceased died due to a dog bite on the premises of his own house does not allude to any dereliction of duty or negligence by the official respondents. For the instant case to attract the maxim *res ipsa loquitur*, the conclusiveness of the sole and direct responsibility of the State has to be exhibited by facts.

38. Therefore, in order to test the applicability of the aforesaid maxim in the present case, it is now pertinent to delve into the relevant provisions that cast a duty upon the MCD to control stray dog menace and ensure the safety of human life.

39. Section 399 of the DMC Act empowers the MCD to enforce dog registration and control measures in Delhi, including mandatory collars, detention of unregistered dogs, and destruction of strays or rabid animals. It also obligates the owners to ensure their dogs are muzzled and leashed, if likely to cause harm or during rabies outbreaks, report any suspected case of rabies. Under Rule 6 of the Rules of 2001, as were then applicable, the MCD is obligated to sterilize and vaccinate stray dogs to control their population and prevent rabies, releasing them back to their original areas once treated. It is also required to collaborate with animal welfare organizations, reimburse their costs, establish sufficient shelters, and provide dog vans for capture and transport, create a mobile sterilization and immunization centre, install incinerators for carcass disposal, and periodically repair shelters or pounds.

40. Even though MCD has a statutory duty to control and maintain stray dogs within its territorial jurisdiction, as explicated in the aforementioned provisions, however, the said duty does not extend to the private premises of the citizens. The admitted position herein is that the incident occurred within the four corners of the petitioner's house and not in any public place. Therefore, MCD cannot directly and solely be held responsible for preventing such an incident as the duty of care towards the child primarily rested with the petitioner and her family in the instant case.

41. Furthermore, the record also does not clarify as to whether the dog that bit the deceased was a stray or a leashed dog that had been

abandoned by its owner. The distinction between these two different versions of the incident holds significant legal implications, particularly with respect to liability or the duty of care. The published statement by the petitioner in the newspaper clippings and the contradictions in the petition raises a need for further factual investigation to ascertain the true nature of the events leading to the death of the deceased.

42. Thus, the absence of clear evidence establishing the responsibility of State instrumentalities prevents this Court from applying *res ipsa loquitur* maxim and holding MCD negligent in the instant case. A meticulous scrutiny of the breach of duty alleged by the parties is required so as to establish whether any negligence by the petitioner also contributed to the eventuality of the incident or if the statutory authorities are solely liable for their failure to address the danger posed by stray dogs, in the instant case. This, however, can only be established by the parties while leading evidence before a competent Civil Court.

43. Consequently, the Court deems it appropriate to keep its hands off from exercising its discretionary powers under Article 226 of the Constitution of India to determine MCD's negligence due to the following disputed facts, which require further adjudication:-

- a) Whether the fatal injuries sustained by the deceased were due to a bite from a stray dog or from a leashed, mad dog that had been abandoned by its owner, as stated by the petitioner and her husband in their statement published in the newspaper clippings and subsequently, contradicted in the legal notice and in the instant petition?
- b) Whether the incident was a result of the statutory authorities' negligence in failing to control or manage

stray animals, or whether the petitioner also exhibited contributory negligence by failing to ensure the safety of her child, including not taking due precautions to prevent a stray dog from entering the premises of her residence?

44. Accordingly, in the absence of any clear evidence or facts demonstrating that the State and its instrumentalities are directly and solely responsible for the incident, the maxim *res ipsa loquitur* will not be applicable as the facts herein do not speak for themselves to establish the liability.

45. In various judicial decisions cited by the petitioner, the Courts have addressed instances where dog-biting incidents occurred in public places or places which were not petitioner's own houses. In the said cases, the Courts relied upon the reasoning that the presence of stray and rabid dogs in public areas constituted a breach of the State's duty to ensure public safety and maintain order. Those decisions underscore the responsibility of State authorities to take proactive steps in mitigating the risks associated with stray dogs and to ensure that public spaces remain safe for all citizens.

46. However, at this juncture, this Court deems it appropriate to refer to the decision in the case of *Satish Kumar v. BSES Yamuna Power Limited and Anr*¹⁶, wherein, the Court, in light of the peculiar circumstances of that case and without prejudice to the stand taken by the respondents, directed the BSES to pay an *ex-gratia* amount of Rs. 2,00,000/- to the petitioner. This view was also taken in *Shagufta Ali*, where the Court restrained itself to adjudicate on disputed facts but awarded an *ex-gratia* lump sum to the aggrieved widow of the deceased while leaving open the liberty to knock on the doors of the

¹⁶ 2018:DHC:1596

Civil Court for further compensation and adjudication of alleged negligence.

47. Therefore, in light of the circumstances of the present case, a sympathetic view is taken by this Court to issue almost similar directions to alleviate the petitioner's suffering following the tragic loss of her 5-months-old child.

48. The Court deems it appropriate to grant an *ex-gratia* lump sum amount of ₹2,50,000/-, to be paid by GNCTD to the petitioner. This payment shall be made to the petitioner within three months from the date of passing of this judgment. Any failure to comply will result in the petitioner being entitled to simple interest at the rate of 6% per annum, accruing from the date of this judgment.

49. The petitioner is also at liberty to pursue appropriate legal remedies in the Civil Court. If the petitioner does so, let the competent Civil Court to adjudicate the matter within one year from the date of institution of any such suit. It is further clarified that the *ex-gratia* amount awarded by this Court is independent of, and in addition to, any compensation that may be awarded by the Civil Court.

50. Notwithstanding the factual scenario of the present case, before parting, it is pertinent to observe here that the stray dog menace in Delhi is a serious issue affecting human life and dignity. Undeniably, the relationship between humans and dogs is at times a relationship of compassion and unconditional love. The responsible authorities should endeavour to manage the menace with the same compassion to ensure equilibrium in the living conditions of both, humans and dogs. It cannot be gainsaid that the issue requires a multi-faceted response, fostering an environment of empathy and balanced co-existence.

51. This Court also places on record appreciation for Mr. R.K.Saini, *amicus curiae*, for his valuable assistance and noteworthy insights with respect to the controversy in the instant petition.

52. In view of the aforesaid, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 26, 2024/p