

**BEFORE THE HON'BLE GREEN TRIBUNAL  
SOUTHERN ZONAL BENCH  
CHENNAI**

**APPLICATION NO.14 OF 2017 (SZ)  
AND  
APPLICATION NO.16 OF 2017 (SZ)**

Meenava Thanthai K.R.Selvaraj Kumar  
Meenavar Nala Sangam represented by its  
President

... Applicant in Application No.14 of 2017

(SZ)

Saravanan Dhakshinamurthy  
Selaiyur, Chennai

... Applicant in Application No.16 of 2017 (SZ)

Vs

The Chairman  
National Coastal Zone Management  
Authority  
Government of India and others

- Respondents

**WRITTEN SUBMISSIONS FILED ON BEHALF OF THE  
OWNERS OF M.T.B.W.MAPLE (11<sup>th</sup> RESPONDENT IN  
APPLICATION NO.14 OF 2017 AND 7<sup>TH</sup> RESPONDENT IN  
APPLICATION NO.16 OF 2017)**

1. The Respondent herein is the owner of a Motor Tanker BW Maple which is registered at the port of Douglas (Isle of Man) with IMO No. 9320752 and call sign of 2GXX8 (hereinafter referred to as the said MT BW MAPLE). The said MT BW MAPLE is a bulk Liquified Petroleum

Gas (LPG) carrier designated as a “VLGC” - a Very Large Gas Carrier - and carries upto 80,644.7 cbm (98% full) consignments of LPG from and to various Ports globally. MT BW MAPLE had during one of its voyages, had carried LPG from Ras Laffan in Qatar for being discharged in India with the port of discharge being, the Kamarajar Port, near Ennore, which is also one of the Respondents in the aforesaid Applications. The said vessel, MT BW MAPLE having part discharged some of the cargo of LPG, had while departing the Kamarajar Port, Ennore on the 28th January, 2017, under the command and control of the “Port Pilot” of the Kamarajar Port, had come in contact/collided with another tanker vessel MT Dawn Kanchipuram, as a result of which, there was a significant oil spillage and resultant pollution from MT Dawn Kanchipuram. The incident of the oil spillage therefore arose on account of a collision of the two motor tankers viz. M.T.B.W. Maple and MT Dawn Kancheepuram at about 0.400 hours on the 28<sup>th</sup> January, 2017. While the former vessel was sailing out of Kamarajar Port, the latter vessel was sailing into the Port. The incident was therefore immediately notified to the Port Control and other authorities by the Master of MT BW MAPLE.

2. Subsequent to such collision and the oil spill, requisite Statutory investigations and enquiries were initiated, including by the Director General of Shipping, Government of India, Tamil Nadu Pollution Control Board, etc. and the said Vessels were detained by the Authorities concerned.
3. The Respondent herein submits that, considering that the detention of the its vessel was causing huge financial loss, it had approached the Director General of Shipping as well as the Government of Tamil Nadu, Tamil Nadu Pollution Control Board and other Statutory Authorities and had several rounds of meetings with all the Authorities. Pursuant to appropriate monetary securities being put up, the said Vessel was permitted to Sail on 13<sup>th</sup> October 2017 after a Bank Guarantee for a sum of Rs.203 Crores (Rupees Two Hundred and three Crores only) was furnished in favour of the Director of fisheries. While things stood thus, the Petitioners herein had approached this Hon'ble Tribunal by filing Application Nos.14,16, 38 and 40 of 2017 seeking appropriate directions for taking remedial measures and for compensation.
4. In light of the aforesaid brief factual background, the Respondent herein sets out the various claims raised in the aforesaid Applications.

A) It is submitted that the Application No.14 of 2017 has been filed seeking a:

- a) direction to the Respondents to take speedy action to restore the environment at Kamarajar Port and its surrounding areas and clear the oil pollution arising out of the collision of the two cargo ships and
- b) direction to the 9<sup>th</sup> Respondent (Kamarajar Port Limited) to pay compensation to the eco system people and the affected persons belonging to the fishermen community.

B) Application No.16 of 2017 has been filed to direct the Respondents to a) complete clean up of the oil spill, b) to pay compensation for any damage caused to the environment and coastal ecology and c) direct the Respondents to pay compensation for the loss of livelihood caused to the fishermen who have not been able to carry on fishing activity.

5. The Respondent herein submits that, the oil spillage resulted in no significant lasting damage to the environment but it did cause a short term loss of livelihood to the fishing community in the Districts of Chennai, Thiruvallur and Kancheepuram. The various statutory

authorities, as set out above, *inter alia*, the various heads of Departments of the Central Government as well as the State Government including Director General of Shipping, Central Pollution Control Board, Principal Secretary cum Chairman of the Tamil Nadu Pollution Control Board, Additional Director General of Police, the Principal Secretary, Fisheries and Animal Husbandry, the Commissioner of Fisheries, the Director of Fisheries sprang into action. The official machinery thereafter took efforts to assess the loss/damage suffered by the fishing community in general as well as any damage caused to the environment in the aforesaid Districts on account of the collision. The Directorate of Fisheries was the Nodal Agency. Considering the fact that the livelihood of the various types of fishing community like the fishermen, the fish vendors as well as owners of motorized boats, mechanized boats and non-mechanized boats were affected and in order to assist the said community, the Government of Tamil Nadu provided an interim relief of a sum of Rs.5000/- to Rs. 30,000/- to the fishermen affected and the process of assessing the claims for compensation was initiated without any loss of time.

6. In the meantime, since the above Applications as well as Application Nos.38 of 2017 and 40 of 2017 were filed before this Hon'ble Tribunal,

a Bench of this Hon'ble Tribunal directed the Fisheries Department of the State of Tamil Nadu to quickly facilitate the submission, analysis and assessment of claims towards compensation for the fishing community as well as towards any environmental damage caused on account of the collision. Besides, the Management representatives of the two ship owning companies, the senior Directors of two UK Based Protection and Indemnity Club (P & I Club) of the ship owners (Insurers) as well as their Indian correspondents participated in all the high-level meetings and rendered their assistance and cooperation in the early resolution of the disputes. Upon appropriate directions being passed by the this Hon'ble Tribunal, the Director of Fisheries had directed the Fishermen and Fishermen's Association to submit the Applications for compensation for the losses allegedly suffered by them. This Hon'ble Tribunal had also fixed a timeline for submission of the claims, by the affected Fishermen.

7. Further, pursuant to the directions of this Hon'ble Tribunal, 18 teams consisting of 65 officials from the Department of Fisheries were constituted to assess the compensation claims on account of the loss of livelihood of the fishing community as well as the damage to the environment including for containment of the pollution caused on

account of the environment incident. Further, Kamarajar Port Limited in association with the Indian Oil Corporation Ltd. had also immediately extended its support towards containment of the pollution as well as the restoration of any damage caused to the environment. This was done in consultation with and the active involvement of the Scientist and officials of the Central Pollution Control Board and the Tamil Nadu Pollution Control Board as well as the Department of Fisheries. On the basis of the site inspection in June 2017 at 25 locations and after carefully monitoring the steps taken for restoration as well as 18 teams constituted with 65 officials of the Fisheries Department to assess the quantum of the loss of suffered by the fishing community, which activities were actively monitored by this Hon'ble Tribunal besides the senior officials of the various Statutory bodies. A high-level committee assessed the total amount payable as compensation for loss of livelihood and damage to the equipments of the fishing community at Rs.130.2175 Crores and a sum of Rs.10 crores towards restoration cost. However, since the initial assessment of damage, both towards loss of livelihood compensation as well for restoration of the environment was assessed at Rs.240.003 crores, the insurers were asked to furnish a Bank Guarantee for a sum of Rs.203 crores as the said amount was the provisional loss

after adjusting the operational cost of Rs.26.85 crores. Accordingly, a Bank Guarantee for a sum of Rs.203 crores was submitted by the ships' P&I insurers to the Director General of Fisheries.

8. Subsequently, upon a detailed assessment being made by the Fisheries Department, the net loss was assessed at Rs.141 crores including Rs.10 crores towards restoration cost. The Expert Committees appointed by this Hon'ble Tribunal and engaged by the Fisheries Department had also assessed the loss at Rs.130.2175 Crores for 1,14,448 Claimants. This was done after this Hon'ble Tribunal had extended the time limit fixed by the Department for submission of claims and adequate opportunity was provided to the fishermen community. Further, the local Correspondents of one of the Insurers had also set up a claim submission office in Chennai to help out the fishermen in submission of the claims. The assessment has been made by the Fisheries Department which has been confirmed by way of various reports submitted to this Hon'ble Tribunal as well as to the Principal Secretary, Fisheries Department, Government of Tamil Nadu. This Respondent as well as their insurers had also regularly met the officials concerned with a view to resolve the claims amicably and expeditiously, and upon being informed that the final assessment, both towards monetary claims as well

as towards containment and restoration of environment damage were pegged at Rs.141 crores. The Senior Director of UK P & I Club as well as the representatives of the Steam Ship Mutual Club, representing both the owners had met not only the Principal Secretary, Fisheries Department but also the then Hon'ble Minister, Fisheries Department to impress upon them that the P & I Club and the ship owners were keen on arriving at a complete settlement of all the claims. It was only on such basis that a sum of Rs.141 crores was remitted to the Government of Tamil Nadu on 28.03.2018 by the insurers of this Respondent, and on behalf of both ships, which was towards both the claim for loss of livelihood and damage caused to the fishing community as well as the containment and restoration cost. The said sum of Rs.141 crores was in addition to a sum of Rs.15 crores deposited by the Steam Ship Mutual Club, US 1,50,000 equivalent to about Rs.97,95,000/- remitted by this Respondent by way of Corporate Social Responsibility and reimbursement of the cost of restoration of Rs.5.68 crores reimbursed to Kamarajar Port Ltd. towards restoration cost. It would thus be seen that this Respondent as well as the other Ship Owner and also their respective P & I Clubs have made such timely remittances to ensure that the fishing community were not subject to any suffering. It is also

relevant to bring to the notice of this Hon'ble Tribunal, that the Division Bench of the Hon'ble Madras High Court, had vide its Order dated 13<sup>th</sup> March, 2018 passed in W.A. No. 537 of 2018, *inter alia* also duly recorded the details of the payments made by the Owners of the said Vessels. The disbursements were all made by the Director of Fisheries out of the amounts remitted and on the basis of the high-level committee appointed by the Fisheries Department. In fact, the payment of the amounts towards compensation were all made subject to scrutiny by this Hon'ble Tribunal from time to time and based on the quantum which were confirmed to be adequate.

9. It is here relevant to state that one M.E.Raja, representing the National Union of Fishermen had filed a Writ Petition bearing W.P.No.11623 of 2018 before the Division Bench of the Hon'ble Madras High Court alleging that the claims of the Members of the said Association were not considered while scrutinizing and assessing the claims for compensation and that they were not provided with sufficient opportunities for submission of claims. Although this Respondent was not a party to the said Writ Petition, the Department of Fisheries had filed a Counter Affidavit as well as the Status Report as directed by this Hon'ble Tribunal. A perusal of this Counter Affidavit and the Status Report, a

copy of which is filed herewith, would show that a complete and proper assessment of all the claims of all the fishermen affected were considered and the Hon'ble High Court was fully convinced that the Fisheries Department had duly analyzed and crystalized the claims and made the payments, without leaving out anybody and after giving extension of time for submission of claims, as directed by this Hon'ble Tribunal. It was only thereafter that the Hon'ble Division Bench dismissed the said Writ Petition. Therefore, it would be clear that the *bona fide* claims of different sections of the fishing community including the Association were duly and fairly considered and paid in their entirety.

10. This Respondent states that in as much as the sum of Rs.141 crores deposited by the Insurers of this Respondent on behalf of both ships were sufficient, after taking into account certain other payments made, this Respondent and their Insurers filed W.P.No.31045 of 2019 in the Hon'ble Madras High Court for return of the Bank Guarantee for Rs.84 Crores furnished on their behalf, which was more as a buffer since all the claims including on account of loss of ecology, restoration costs, remedial measures etc. had already been taken care of by the deposit of Rs.156 crores which was given by both the Vessels. However, strangely, the Fisheries Department claimed, for the first time that the sum of

Rs.141 crores was only on a provisional basis and therefore, the Bank Guarantee could not be discharged and returned to the Ship Owner and the P & I Club. This stand taken in the Counter Affidavit in the said Writ Petition was entirely contradictory to the consistent stand taken by the Fisheries Department, since March, 2017 until when the Status Report were filed in this Hon'ble Tribunal, including while not being in conformity with the stand taken by them in W.P.No.11623 of 2018. It is also submitted that besides being monitored by this Tribunal, the claims towards loss of livelihood as well as damage caused to the environment including containment and restoration were subject to scrutiny by the various Statutory Authorities. Consequently, the Fisheries Department cannot now be allowed to state that the Bank Guarantee cannot be returned since there are no pending claims. It is here relevant to state that the assessment of quantum of compensation and damage was done only by the Fisheries Department and the Fishermen were also happy and convinced that they have been compensated by the Ship Owners, completely, without any loss of time nor have they claimed any additional amounts by way of compensation. It should also be borne in mind that it has been about 3 years and 10

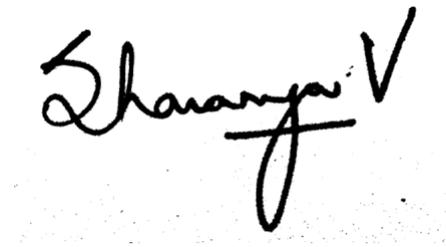
months since the event had taken place and further claims, if any, of the fishermen are clearly barred by limitation.

11. At the risk of repetition, it is submitted that, the cash deposit of Rs.141 crores that had been deposited by this Respondent, on behalf of both ships, which was only on the basis of the assessment made by the statutory authorities and which was done after scrutinizing and analyzing the various claims made by the Fishermen and their Associations pursuant to the directions given by this Hon'ble Tribunal has taken care of all of the claims. Notwithstanding the fact that no further claims can now be made or submitted, the disbursements already made through the Departments concerned would have fully satisfied the claims made by the Fishermen and their Associations both with regard to the damage suffered by them as well as for the loss of livelihood. Considering the same, it is therefore submitted that the claims of all the fishermen having been settled in full and the cost of containment and restoration on account of the damage caused to the environment also having been settled, nothing further survives in the above Applications.

12. This Respondent seeks leave of this Hon'ble Tribunal to not only refer to and rely upon the documents filed in the paper book filed in the aforesaid applications but also craves the leave of this Hon'ble Court to file additional submissions, if any, should the need arise.

In light of the above, it is therefore just and necessary that this Hon'ble Tribunal be pleased to record the settlement of all claims in their entirety and direct the return of the Bank Guarantee furnished by this Respondent for a sum of Rs.84 crores issued by Kotak Mahindra Bank Ltd. bearing No.84730 BG 180095588 dated 16<sup>th</sup> May 2018, which has been kept alive for over 3 years, besides dismissing the various Applications pending before this Hon'ble Tribunal and pass such further and/or other order(s) that this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render justice.

Dated at Chennai this the 3<sup>rd</sup> day of December, 2021

A handwritten signature in black ink, appearing to read 'Sharanya V', is written over a faint, dotted rectangular stamp.

**COUNSEL FOR THE RESPONDENTS**

