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W.P.No.2277 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

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Jayalakshmi

... Petitioner

Vs.

1.The Chairman,
Tamilnadu Generation and Distribution Corporation Ltd.,
144, Anna Salai,
Chennai.

2.The Executive Engineer,
Tamilnadu Generation and Distribution Corporation Ltd.,
Erode Distribution Circle,
Erode – 638 009.

3.The Assistant Engineer,
O & M – Rural,
Tamilnadu Generation and Distribution Corporation Ltd.,
Kavandapadi,
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to grant a compensation of Rs.25,00,000/- for the death of petitioner's son, Sivabalan.



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For Petitioner : M/s.R.Arun Dattan
For Respondents : Mr.I.Syed Sibghatulla
Standing Counsel

ORDER

Praying for direction to pay compensation in a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) with regard to the death of her son Sivabalan, the petitioner has come before this Court by filing the present petition.

2. The case of the petitioner is that her son, Sivabalan was doing post-graduation in M.Sc. On the crucial date, viz., 29.05.2019, the petitioner's son went to the nearby shop to buy newspaper. As ill luck would have it, there was a snapped live low tension electric wire, lying on the road, and when the said Sivabalan came in contact with the snapped live wire, he was electrocuted. Regarding the said tragic incident, a complaint has been lodged, which was registered as a case in Crime No.245 of 2019 under Section 174 of Cr.P.C. on the same day, wherein, it has been alleged that the respondents were not proper in maintaining the



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electric wires, and it was only due to their negligence and recklessness, the said Sivabalan died. Hence, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submits that in respect of electrocution, a sum of Rs.5,00,000/- is payable towards ex gratia. However, on 08.10.2019, a sum of Rs.2,00,000/- alone was paid as ex gratia in respect of the death of the petitioner's son by the respondents. He also submits that the petitioner's son was doing his post-graduation and had he completed his education and seen to see the light of the day, he would have got himself well placed and would be earning well and would have taken care of his family. However, his untimely demise had left the family in financial distress and the meagre compensation given by the respondents is not only inadequate, but the death was due to the lethargic attitude of the respondent in not maintaining the electrical wire properly, but for which the petitioner's son would have been alive. Therefore, this Court may consider passing a direction to the respondent to shell out adequate compensation for the loss suffered by the petitioner.



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4. The learned Standing Counsel appearing for the respondents has filed counter affidavit, in which, it has been stated that on 29.05.2019, around 07.40 a.m., unfortunately, the petitioner's son Sivabalan came in contact with a live wire, while walking through the sugarcane field and got electrocuted. He also submits that due to heavy rain with wind on the previous day, i.e., on 28.05.2019, many trees fell over electrical lines and poles in various places in and around Kavindapadi. A Seemakaruvela tree also fell down on the low tension line near the accident spot. Two phase electrical wire snapped and had fallen on the bunch of sugarcane. The petitioner's son had unknowingly come in contact with the snapped live LT wire which has resulted in his electrocution. . Thereafter, the parents of the deceased prayed for compensation on 31.05.2019, pursuant to which, a sum of Rs.2 lakhs was sanctioned and disbursed to the petitioner on 28.08.2019 vide Cheque No.878218 dated 21.08.2019. In addition to this amount, a sum of Rs.1 lakh was received by the petitioner from Tamil Nadu Chief Minister's General Relief Fund.

5. Further, he submits that the site of electrocution was a sugarcane plantation and the same does not belong to the petitioner and the owner of



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the said sugarcane field was not affected, however, this place is completely dense with sugarcane plantation and it is neither a public track nor foot path. The casualty Sivabalan had chosen the dense sugarcane field despite having a safe and clear route to go where no electrical lines were cut due to natural calamity. He also submits that the live wires were properly maintained and pre-monsoon inspection and preventive measures were carried out during the total shutdown on 20.01.2019 and regular tree cutting works were carried out in HT & LT lines and maintained in a proper way. Therefore, the accident had occurred only due to the falling of Seemakaruvela tree on the electric line because of natural acts, which cannot be fastened on the respondents. Hence, the accident has not happened due to any lack of maintenance or negligence on the part of the respondents.

6. Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents and perused the materials available on record.



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7. The death of the petitioner's son by electrocution is not in dispute. Equally it is not disputed that the electrocution was on account of the snapping of live wire, on which the petitioner's son had inadvertently come in contact, resulting in his instantaneous death.

8. The respondents, to absolve itself from any liability to pay compensation, place the onus on the act of the Almighty, in that the natural calamity in the form of heavy rain and strong winds had resulted in the snapping of very many electrical wires due to trees falling on the electrical lines. It is the further case of the respondents that the live wire had snapped in the sugarcane field, which does not belong to the petitioner and it belonged to some other person and, therefore, the petitioner's son had no reason or permission to traverse through the said field and, therefore, the resultant electrocution cannot be put against the respondents. Further, the owner of the lands has in no way been affected and the petitioner's son, having traversed through the said lands without permission, no compensation can be claimed by the petitioner, when the said route taken by the petitioner's son is neither a public road or a foot path.



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9. There is no quarrel with the fact that the sugarcane field in which the live wire had fallen does not belong to the petitioner. But it cannot be claimed as a matter of right by the respondents that the petitioner's son had no authority or right to traverse through the lands, to which he had no ownership. Further, it does not lie in the mouth of the respondents to make such a claim for the simple reason that the owner of the said sugarcane field has not come out and claimed that no person other than the owner has any authority to walk through the field.

10. It is the normal practice in a village that the villagers, to reach their destination, walk through the lands of the other persons so as to reach the destination early. There is no necessity for any ownership over the lands for passing through the said lands. Merely because the lands belonged to some other person, it cannot be claimed that the petitioner's son cannot walk through the said lands, moreso in the absence of any objection from the owner of the said land. Further, it is not the case of the respondents that except the petitioner's son, no one else was using the said way.



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11. It is even the admitted case of the respondents that there was severe rain and gusty winds on the preceding night, which was the reason for the snapping of electrical lines due to trees falling on the electrical lines. In fact, it is the admitted case of the respondents that pre-monsoon inspection and preventive measures were carried out during the total shutdown on 20.01.2019 and regular tree cutting works were carried out in HT & LT lines and was maintained in a proper way. If the case of the respondents is to be accepted that the pre-monsoon inspection was carried out and the maintenance of the lines were undertaken scrupulously, this Court is at a loss to understand as to how there could be snapping of LT and HT wires. Further, even for the sake of argument, it is to be taken that pre-monsoon checks were carried out, yet it is to be pointed out that the heavy downpour of rain along with gusty winds, it is the duty of the respondents to see to it that electricity is restored in a phased manner only on coming to a conclusion that there has not occurred any snapping of the electrical lines due to falling of trees over the electrical lines, as any live wire in water or even on the ground would result in a catastrophic scenario to the entire people living in the locality. Fortunately for the respondents



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and unfortunately for the petitioner, the petitioner's son alone was caught in the unforeseen situation of stepping on the live wire resultantly electrocuting him.

12. It is not the case of the respondents that it satisfied itself that none of the electrical wires were snapped and only thereafter, the electrical supply was restored. It is the duty of the respondents to see to it that there were no wires, that stood severed in the gusty wind and falling of trees, which would result in a dangerous situation, if any person comes in contact with the same. Without satisfying itself as to the safety of all the lines, the respondent had effected the supply, which has resulted in the loss of life of the petitioner's son. The respondents cannot shift the blame on the petitioner's son that he should not have traversed the path through the sugarcane field and rather, he should have gone about in the regular road, which would not have resulted in the loss of life of the petitioner's son. It is not for the respondents to say that a person should take a particular route to reach his destination; rather the duty of the respondents is to see that the overhead electrical lines, of which the respondents have the responsibility, is in proper place, which would be safe for the



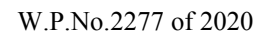
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movement of pedestrian. Therefore, the respondents cannot shriek responsibility for the loss of life of the petitioner's son.

13. Coming to the aspect of payment of compensation to the petitioner, true it is that a sum of Rs.2,00,000/- (Rupees Lakhs only) has been paid by the respondents to the petitioner, as ex-gratia payment, towards the loss of life of the petitioner's son. However, can the said ex-gratia amount, paid, be treated to be an adequate compensation to the petitioner towards the loss of life of her son, who was pursuing his post-graduation and would have turned out to be the breadwinner of the family at a later point of time is the question that falls before this Court for consideration.

14. Normally, in case of loss of life of an individual in motor accident cases, compensation is awarded for the said loss, payable by the insurer of the vehicle. In the absence of the vehicle being insured, the onus shifts on the owner of the vehicle, who is bound to pay the compensation. The above compensation is only an aid with which the family could sustain itself from its loss on the monetary angle and no



15. Loss of life on account of accident or loss of life on account of electrocution, both stand on the same lines, as it pertains to loss of life. The loss of life on account of electrocution is also an accident, which cuts short the life of the individual prematurely and puts the family to umpteen times the pain and grievance.

16. This Court had occasion to consider a similar issue, where the negligence on the part of TANGEDCO in not maintaining the electrical lines properly resulting in electrocution. In ***I.Muniapushpam Vs. The Chairman, Tamil Nadu Electricity Board & 2 Ors.***, this Court, invoking the ratio laid down in ***Sarla Verma – Vs - Delhi Transport Corporation & Anr.,(2009 (6) SCC 121)*** had gone on to award compensation by making computation of compensation payable and the relevant portion of the said order is as under :-



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with regard to payment of compensation for loss of life in a motor accident case could very well be imported to the present case, in which loss of life is on account of electrocution.

18. In the case on hand, the petitioner's son was doing post-graduation in M.Sc., which is not disputed by the respondents. Therefore, taking the educational qualification of the deceased, this Court is of the view that had the deceased completed his education, he would definitely have settled in a post in which he would have earned not less than a sum of Rs.12,000/- per month to which 40% is to be added under the head future prospects. Therefore, the total earning of the deceased would be Rs.16,800/- (Rs.12,000 + Rs.4,800). The deceased being a bachelor and survived by his parents, 50% of his earnings is deductible towards his personal expenses, thereby, his contribution to the family, which consists of his parents would be in a sum of Rs.8,400/-. The deceased being within the age group of 15 – 25 years, the multiplier applicable is 18. Accordingly, the loss to the family is computed at Rs.18,14,400/-. Further, a sum of Rs.50,000/- towards loss of love and affection and Rs.50,000/- towards pain and suffering and Rs.25,000/- towards funeral



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expenses are also added and, thereby, the total compensation works out to Rs.19,39,400/- (Rupees Nineteen Lakhs Thirty Nine Thousand Four Hundred only). The respondents have already paid a sum of Rs.2,00,000/- (Rupees Two Lakhs only) as ex-gratia amount to the petitioner. Therefore, deducting the amount of Rs.2,00,000/-, the respondents have to pay a sum of Rs.17,39,400/- (Rupees Seventeen Lakhs Thirty Nine Thousand Four Hundred only).

19. In the result, this writ petition is allowed and the 1st respondent is directed to pay the sum of Rs.17,39,400/- (Rupees Seventeen Lakhs Thirty Nine Thousand Four Hundred only) to the petitioner within a period of four weeks from the date of receipt of a copy of this order. Failure to pay the aforesaid amount within the said period, the said amount will carry interest at 6% per annum from the date of the death of the deceased till the date of payment. In the circumstances of the case, there shall be no order as to costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
GLN/sp



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M.DHANDAPANI, J.

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