



A.S.(MD)No.278 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 19.03.2024

Delivered On : **18.06.2024**

CORAM

THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

A.S.(MD)No.278 of 2022

and

C.M.P.(MD)No.12760 of 2022

- 1.The Assistant Electrical Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Ramanathapuram.
 - 2.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Ramanathapuram.
 - 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Ramanathapuram.
 - 4.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Chennai.
- ... Appellants

Vs.

- 1.Arivuselvi
 - 2.Minor Kabillesh
(Minor 2nd respondent represented through
his mother and natural guardian 1st respondent)
 - 3.Kalaiyarasi
- ... Respondents



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PRAYER : Appeal Suit is filed under Order 41 Rule 1(1) and Section 96 of Civil Procedure Code, to set aside the judgment and decree dated 20.04.2022 passed in O.S.No.35 of 2021 on the file of the learned Principal District Judge, Ramanathapuram.

For Appellants : Mr.B.Ramanathan
For 1st Respondent : Mr.K.Appadurai

JUDGMENT

This Appeal Suit has been filed as against the judgment and decree passed in O.S.No.35 of 2021, dated 20.04.2022, on the file of the learned Principal District Judge, Ramanathapuram.

2.The respondents/plaintiffs have filed the above suit claiming the following reliefs:-

“(i)To pass an order directing the defendants to pay a compensation of Rs.10,00,100/- to the plaintiffs.

(ii)To pass an order of cost of this suit.

(iii)To pass such other reliefs as the court deems fit and proper.”

3.For the sake of convenience and brevity, the parties herein after, will be referred to as per their status/ranking in original suit.



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tree after plucking tender coconuts and bent down to pick up the coconuts. As he stood up, he saw the first plaintiff's husband, Shanmugam, was electrocuted by the downed power line and was thrown to the ground. The first plaintiff and her family immediately took Shanmugam to the government hospital, where the doctors, upon examination, informed them that Shanmugam was already dead. An FIR was filed, and a postmortem was conducted. The FIR serves as the first documentary evidence on the plaintiff's side, and the autopsy report is the second documentary evidence.

(iii)The defendant's negligence was the main reason for the death of the first plaintiff's husband. At the alleged place of the accident, high-voltage electrical lines were hanging very low. Despite repeated requests, the defendants did not take any steps to remove the low-hanging electrical wire. The first plaintiff filed a complaint at the Bajar Police Station in Ramanathapuram, and the police registered the complaint under Section 174 (Electrical Shock) of the Code of Criminal Procedure, 1973. However, when the police visited the alleged place of accident, they filed an FIR in support of the defendants, contradicting the first plaintiff's complaint. The FIR stated that the first plaintiff's husband was electrocuted when he unexpectedly touched the live (power) electrical wire passing inside his house.



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(iv)The plaintiff's third evidence is the photograph showing the downed electric wires at the site of the alleged accident. On 16.04.2020, after the death of the first plaintiff's husband, the defendants hastily removed the downed electric wires and this was shown in the photograph which is the fourth evidence of the plaintiff's side.

(v)The tortious act of the defendants is the primary cause of the first plaintiff's husband's death. Despite knowing the potential for loss of life if the downed electric wire was not removed and despite multiple complaints from people of the locality, the defendants failed to take action. This negligence directly led to the death of the first plaintiff's husband. The defendants' failure to address the hazardous power line constitutes a tortious act, making them obligated to pay compensation.

(vi)Shanmugam's death could have been avoided if the defendants had removed the downed power line promptly. The defendants took no action to remove the hazardous wire before the incident. It was only after the first plaintiff's husband's death they removed the electrical wire.



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(vii)Due to the negligence of the defendants and the downed electric wire, a life was lost. Shanmugam was 29 years old when he died. As a result of this accident, the first plaintiff lost her husband, the second plaintiff lost his father, and the third plaintiff lost her son. The plaintiffs' depended entirely on Shanmugam's income for their livelihood. After his death, they have been living a difficult life. The plaintiffs had immense love and affection for Shanmugam, who was the sole head of their family. They relied on him in every way. Now, they are left with no means to sustain their lives. The death of the first plaintiff's husband was due to the negligence of the defendants. Therefore, the defendants are bound to pay damages of Rs.10,00,100/- to the plaintiffs. Hence, this case has been filed claiming damages from the defendants.

5.The defense of the defendant, in short, is as follows:-

(i)The defendants completely deny the information stated in the plaint that first plaintiff's husband died due to the negligence of the defendants. A few averments made in paragraph 3 of the plaint are accepted which are given below:-

“The first plaintiff and her family immediately took Shanmugam to the government hospital, where the doctors, upon examination, informed them that Shanmugam was already dead. An FIR was filed, and a postmortem was conducted.”



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(ii) As stated by the plaintiff the FIR was filed but the investigation was not conducted. In front of the maternal house of the first plaintiff's, the powered electric line was not hanging low as claimed by the first plaintiff. The power lines were erected at the correct height properly and maintained by the defendants through their employees. Until the occurrence of the electric accident on 16.04.2020, no complaints or information was given by the plaintiff or the village people, regarding the downed low-tension line or the removal of the downed power line in front of the first plaintiff's house. Presently the Inspector of Police, Ramanathapuram Police Station has filed the final report for FIR No.170 of 2020, concluding that the defendants were not responsible for the accident and decided the case as FAD (Further Action Dropped) and the final report for the crime was filed on 31.05.2020 before the learned Judicial Magistrate, Ramanathapuram. The defendants are not responsible for the death of the first plaintiff's husband. The first plaintiff's husband's death was due to his negligence and his carelessness. The final report was filed as further action dropped, because the defendants were not responsible for the death of the first plaintiff's husband as the electrical wires were in proper condition only. On 16.04.2020, Shanmugam, the deceased husband of the first plaintiff was plucking the tender coconut, from his father in law's house by standing on the



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ground using long centering iron rod, due to his carelessness, the iron rod came into contact with the low-tension line and Shanmugam got electrocuted. The facts mentioned in the plaint such as, the said Shanmugam climbed the coconut tree to pluck the tender coconut and he got down the tree then he bent down to pick the tender coconut while he stood up, he was electrocuted, this information was completely false and fabricated information for the purpose of the case. After the said accident, the deceased Shanmugam's mother Makelaeswari on 21.04.2021 gave a petition asking the defendants to make minor changes in the electricity line passing along her home and she paid the cost for this, on this request, the defendants changed the electricity line on 07.05.2020. As alleged in the plaint the electric wires were removed after the said accident is completely false and fabricated information.

(iii)Shanmugam, the husband of the first plaintiff, died in the said electrical accident only due to his negligence. By standing on the ground Shanmugam plucked the tender coconut using the long centering iron rod. The electric accident would not have happened if he had been cautious that his life would be in danger if the iron rod slipped and got in contact with the electric wire while plucking the tender coconut. But Shanmugam even after knowing the consequences carelessly and negligently plucked the tender coconut and the



accident happened due to which he lost his life. The first plaintiff concealed the facts and gave the police complaint stating that Shanmugam died because his body came in contact with a downed power line after plucking tender coconut from the tree while he stood up from the ground after picking the coconut he got electrocuted. The defendants are not liable to pay any damages to the plaintiffs because they have nothing to do with the said incident.

6.The learned Trial Court, upon considering the above pleadings, has framed the following issues:-

“1.Whether the contention that the first plaintiff's husband, Shanmugam, died on electrocution by the downed electrical wire on 16.04.2020 is correct?

2.Whether the death of the first plaintiff's husband, Shanmugam, was caused due to the negligence of the defendants?

3.Whether the first plaintiff's husband, Shanmugam, died while he was plucking tender coconut from his father-in-law's house by standing on the ground using long centering iron rod and due to his carelessness when the iron rod came into contact with the low tension wire as contended by the defendants?

4.Whether the death of Shanmugam happened only due to the negligence of the deceased as contended by the plaintiffs?

5.Whether the plaintiffs are entitled to damages as prayed for, if entitled to what amount?

6.What are the other reliefs to which the plaintiffs are



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entitled to?"

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7.Two witnesses, i.e., the first plaintiff namely Arivuselvi and one Kannan were examined as P.W.1 and P.W.2 through whom Ex.A1 to Ex.A6 were marked. On the side of the defendants, one Somasundaram and Ravichandran were examined as D.W.1 and D.W.2 and one document Ex.B1 was marked on the side of the defendants. The learned Trial Court, upon considering the pleadings and the evidence, both oral and documentary and on hearing the arguments of both sides, has passed the judgment and decree dated 20.04.2022, by answering all the issues in favor of the plaintiffs and decreed the suit almost as prayed for.

8.Aggrieved by the impugned judgment and decree, the defendants have preferred the present Appeal Suit.

9.The learned counsel appearing for the defendants/appellants submitted that the plaintiffs have not produced any documents to show that the deceased Shanmugam died due to the negligent act of the defendants. The learned Principal District Court, Ramanathapuram, without considering the said fact, had decreed the suit against which Corporation has preferred the Appeal. He



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further submitted that the salary of the deceased was calculated by the learned Trial Court without any rational basis. That apart, he insisted that the plaintiffs have no locus standi to file the suit before the learned Principal District Court at Ramanathapuram, since there is no tortious act or negligence on the part of the defendants. He categorically contended that the said occurrence had happened only due to the gross negligence of the deceased while he was plucking the tender coconuts from the tree and touched the electrical line negligently. Further, while plucking the tender coconut, the deceased ought to have been very cautious, but without giving any significance to the electrical line which passed near the tree, he indulged in plucking the tender coconut as a result of which, it is exclusively due to his own negligence, the accident had happened and the same has been clearly narrated in the first information report. Hence, he contended that the learned Trial Court ought not to have numbered the suit itself, but unfortunately the same has been decreed. On that basis, he pressed for allowing the Appeal.

10.Per contra, the learned counsel appearing for the plaintiffs/respondents submitted that the plaintiffs have duly proved before the learned Trial Court with appropriate oral and documentary evidence that the death of the deceased Shanmugam exclusively happened only due to the



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downed low tension wire lying in front of the first plaintiff's maternal home posing a significant and potential life threat to the people of the said locality. In view of the same, he pressed for dismissal of the Appeal.

11.The points for consideration are as follows:-

“1.Whether the learned Trial Court erred by holding that the death of the Shanmugam had happened exclusively due to the negligence and carelessness of the defendants by allowing the electric wire to lay in a lower level without proper maintenance?

2.Whether the learned Trial Court erred by passing a judgment and decree directing the defendants to pay damages to a tune of Rs.10,00,100/- with interest to the plaintiffs?

3.Whether the learned Trial Court erred by allowing the suit as paid for with cost?

4.Whether the judgment and decree dated 20.04.2022 in O.S.No.35 of 2021 on the file of the learned Principal District Judge, Ramanathapuram is liable to be interfered with?

5.To what reliefs the parties are entitled to?”

12.The plaintiffs have filed the original suit seeking damages from the defendant Corporation for the death of the first plaintiff's husband, namely, Shanmugam on 16.04.2020 who died on electrocution. The first plaintiff is the wife of the deceased Shanmugam, the second plaintiff being his minor son and



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the third plaintiff is his mother. On 16.04.2020, when the deceased Shanmugam along with the first plaintiff visited the first plaintiff's maternal home, while plucking tender coconut from coconut trees, after plucking while he picked up the tender coconuts and while he was attempting to enter into the house, he was electrocuted by the low lying electrical line, which was allowed by the defendants to lie low without maintenance carelessly and negligently. Immediately when he was taken to the Government Hospital, the Doctors upon examination informed that he was already dead, following which an FIR was filed and a postmortem was also conducted. The said FIR and the postmortem report would form a pertinent piece of documentary evidence proving the cause of death of the deceased Shanmugam. Though it has been contended by the defendant Corporation that the contention of the plaintiffs that a low lying electrical wire had been allowed by the defendant Corporation to lie low before the first plaintiff's maternal home, the Corporation categorically contended that they have maintained all the electric wires in that locality by maintaining the same in an appropriate height. That apart, they also categorically contended that neither the plaintiffs nor any person from the said Village had lodged any complaint with respect to the said electrical wire, which has been alleged to have caused the death of the deceased Shanmugam.



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13. In addition to that, it was vehemently contended by the respondent Corporation that the death had happened exclusively only due to the negligence of the deceased person Shanmugam by using an iron rod for plucking coconut and when it accidentally came into touch with the electrical wire which was lying before the first plaintiff's maternal home. The learned Trial Court observing the fact that the defendants have not denied the fact that the plaintiffs or the legal heirs of the deceased Shanmugam and that the Shanmugam died only due to the electrocution proceeded to record that the first information report which has been marked as Ex.A1 and postmortem report marked as Ex.A2 would duly prove that the cause of death of Shanmugam on 16.04.2020 was certainly due to electrocution and they have duly proved the same.

14. Though the defendant Corporation has contended that the death of the said Shanmugam had happened only due to his negligence and the same has been established by Ex.B1 final report of the jurisdiction Police Station in the FIR registered on the death of the said Shanmugam. The learned Trial Court on carefully perusing the aforesaid final report has recorded that, the said final report do not contain any information as to the claim made by the defendants, on the other hand only the information as to the fact that the first plaintiff's husband having plucked the tender coconuts and was trying to enter the



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maternal home of the first plaintiff, accidentally the low lying electrical wire came into contact with the hand of first plaintiff's husband, as a result of which he was thrown and he fell down in an unconscious state and the first plaintiff found him unconscious when she came out on hearing the noise. It has also been recorded that the first plaintiff's father one Kannan and mother Makelaeswari together when they came and lifted the first plaintiff's husband, he was lying unconsciously and immediately they lifted him and transported him in an auto to Ramanathapuram Government hospital for treatment, the Doctors examined him and informed that he had already died. Apart from the same, the said final report do not have any iota of information as to the contention of the defendants. Recording the same, the learned Trial Court proceeded to negate the defence taken by the defendants.

15. Under such circumstances, it is of the considered view of this Court that the findings of the learned Trial Court with respect to the first and second issue need not be interfered with and the learned Trial Court has rightly held that the negligence and carelessness of the respondent Corporation allowing the electrical line to lie in a lower level before the first plaintiff's maternal home had resulted in the electrocution and death of the first plaintiff's husband. Since the learned Trial Court has answered in favor of the plaintiffs with respect to



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the first and second issues obviously, the third and fourth issue would go negating the claim of the defendants. Hence, it has been held by the learned Trial Court that the death of the said Shanmugam had resulted due to the negligence and carelessness of the respondent Corporation, the learned Trial Court while deciding the fifth issue had rightly proceeded to calculate the compensation to which the plaintiffs, that is, the legal heirs of the deceased Shanmugam are entitled to. Further relying upon the order passed by this Court in ***W.P.(MD)No.15166 of 2020*** in the case of ***G.Chandatik Kalaipandian versus the Inspector of Police and another*** dated 02.11.2020, in a similar case of death by electrocution. This Court has passed a favorable order and paragraph no.12 of the same is extracted as follows:-

“12. It has further been laid down that compensation payable in such cases can be determined by applying the formula applied for computing damages in motor accident cases. Saravanan was aged 22 years, when he died. He is survived by his parents and his younger brother Bharathi. Saravanan of course was not in a salaried job. Therefore, his monthly income can be taken as Rs.12,000/-. Since he was a bachelor, he would have spent 50% of the sum on himself. The multiplier is “18”. The loss of income to the family can be calculated as follows:-

$$Rs.6,000/- \times 12 \times 18 = Rs.12,96,000/-$$

A further sum of Rs.70,000/- must be awarded under the conventional heads. He was riding a two wheeler and it was



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damaged beyond repair. The value of the vehicle can be assessed at Rs.20,000/-. The total sum payable to the family can therefore be computed as Rs.13,86,000/-(Rupees Thirteen Lakhs and Eighty Six Thousand only). Invoking the Board proceedings (Per.)(FB) TANGEDCO Proceedings No.6 dated 16.10.2019, TANGEDCO was directed to pay a sum of Rs.5,00,000/- and the same was paid to W.P.(MD)No.15166 of 2020 the petitioner on 29.10.2020. TANGEDCO is also directed to pay the balance amount of Rs. 8,86,000/- within a period of twelve weeks from the date of receipt of a copy of this order. TANGEDCO is directed to create two Fixed Deposits, one for a sum of Rs.6,00,000/- in the name of the mother of the deceased, namely, Ramalakshmi and Rs.2,86,000/- in the name of the father of the deceased, namely, Sendhattikalaipandian in any nationalised bank. The deposit holders cannot encash the fixed deposits for a period of ten years. They can however withdraw the accrued interest once in three months.”

16. Adopting the mandate of the aforesaid judgment, the learned Trial Court proceeded to apply the formula applicable for computing damages in Motor Accident cases. On that basis, applying proper multiplier and adopting the other formulas in terms of the calculation in Motor Accident Claims cases, the learned Trial Court proceeded to conclude that the plaintiffs are entitled to the damages of Rs.10,00,100/- with interest as prayed for. The apportionment of the aforesaid damages between the plaintiffs has also been duly decreed in



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the aforesaid judgment and decree passed by the learned Trial Court.

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17.In the result, the Appeal Suit is dismissed and the impugned judgment and decree passed in O.S.No.35 of 2021 dated 20.04.2022 on the file of the learned Principal District Judge, at Ramanathapuram, is hereby confirmed. Accordingly, the Appeal Suit stands dismissed and the parties are directed to bear their respective costs. Consequently, connected miscellaneous petition is closed.

18.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Mrn



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To

- 1.The Principal District Judge, Ramanathapuram.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

Order made in
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