



W.P.(MD)No.27314 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	21.06.2024
Pronounced On	09.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.27314 of 2019

Murugesan, S/o.Chinniah

... Petitioner

Vs.

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

2.The Superintendent Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
Near Old Bus Stand, Pudukottai,
Pudukottai – 622 001.

3.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
Near Old Bus Stand, Pudukottai,
Pudukottai – 622 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for
issuance of a Writ of Mandamus, directing the respondents 1 to 3 to pay a



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just and reasonable compensation a sum of Rs.25,00,000/- (Twenty Five Lakhs Only) for the death of the petitioner's son Late.Rajesh, aged about 28 years old, who died due to electrocution, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents to pay a just and reasonable compensation of Rs.25,00,000/- for the death of the petitioner's son Late.Rajesh, aged about 28 years who died on 08.08.2017 due to electrocution.

2. The case of the petitioner is that the petitioner's son was electrocuted and therefore, the petitioner is entitled to compensation on account of the death of his son due to electrocution. It is submitted that the petitioner's son was working as a Helper to the Carpenter in Sri Karpaga Vinayaga Wood Carving Shop and on 08.08.2017 at about 09.00 a.m., when he went to attend nature's call at the back side of the Shop, where he was electrocuted and died on the spot.



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3. The learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in **Madhya Pradesh Electricity Board vs. Shail Kumari**, 2002 (2) SCC 162, wherein, the Hon'ble Supreme Court has interpreted the rule of strict liability and directed the Electricity Board to pay the compensation to the dependents of the deceased. Paragraph 7 of the above decision reads as under:-

"7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps."



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4. It is submitted that one Saravanan had submitted an Application for providing an electricity service connection to Sri Karpaga Vinayaga Wood Carving Shop and Electricity Service Connection No.111-015-955 under Tariff - V was provided on 31.12.2014. The registered Electrical Contractor and Supervisor inspected internal wiring works and affixed his seal and signature in the Application and Test Report. After verification, the jurisdictional Assistant Engineer inspected and found that the meter box and fuse carrier satisfied with safety aspects. It is therefore submitted that the Electricity Board is responsible only for the meter board to external wiring works and for the internal wiring works, the consumer is liable.

5. It is submitted that for the accident that had occurred on 08.08.2017, the present Writ Petition was filed on 18.12.2019, *i.e.*, after a lapse of two years. It is submitted that this Writ Petition is not maintainable due to laches and therefore, the petitioner is not entitled to claim compensation on this ground itself.

6. It is submitted that the petitioner made a Police complaint against the owner of Sri Karpaga Vinayaga Wood Carving Shop and the Police



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registered F.I.R. and Charge Sheet is filed against the owner alone, not against the Electricity Officials. It is submitted that there is no employer-employee relationship between the owner and the respondents.

7. It is further submitted that there was no negligence on the part of the Electricity Board and therefore, the owner of Sri Karpaga Vinayaga Wood Carving Shop is liable to pay compensation to the petitioner alone. The electric accident occurred inside of Sri Karpaga Vinayaga Wood Carving Shop. It is submitted that the employer alone was liable for internal wiring works and hence, he has to pay compensation to the petitioner. The owner of the Sri Karpaga Vinayaga Wood Carving Shop did improper interior wiring works inside the Shop and after the electric accident only, the owner has completed wiring works properly.

8. It is further submitted that the negligent act of the Shop owner ought to be proved with evidence. Therefore, a suit alone is the proper remedy and not a Writ Petition under Article 226 of the Constitution of India. Judicial Review under Article 226 of the Constitution of India is not maintainable to enforce a civil liability arising out of a breach of a contract or a tort to pay an amount of money, as held by the Hon'ble



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Supreme Court in **Govadari Sugar Mills Limited vs. State of Maharashtra**, 2011 (2) SCC 439.

9. The third respondent in his counter affidavit has stated that on 08.08.2017 at 11.30 p.m., the petitioner's son went to attend nature's call at the backside of the Industry and was electrocuted and died. The backside of the Industry is thatched with iron rod and in that place, there was a junction box, which was in a damaged condition and improper wiring. In between the thatched roof and the entrance, an iron wire was tied for drying the clothes.

10. It is submitted that the incident was not informed to the respondents and that after receipt of the petitioner's representation dated 19.08.2017, the jurisdictional Assistant Engineer inspected the spot on 21.08.2017 and found that the electricity meter, wiring and fuse carrier were not in a good condition and that the respondents had not received any complaint from the owner of Sri Karpaga Vinayaga Wood Carving Shop and that the Electricity Board is carrying out monthly maintenance and therefore, there is no negligence on the part of the respondents.



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11. The learned Standing Counsel for the respondents has drawn the attention to the report of the Line Inspector, dated 12.02.2018. He refers to Serial Nos.14 and 15 of the said report. The relevant portion of said report reads as under:-

"14. (அ) காவல் துறையினரால் எடுக்கப்பட்ட நடவடிக்கை-FIR.No.448/2017 நாள் 09.08.2017 சட்டபிரிவு 174 Cr.P.C. புதுக்கோட்டை, கறம்பகுடி தாலுகா, மருதன் கோன் விடுதி அஞ்சல், சொக்கன் தெருவை சேர்ந்த சின்னையா மகன் முருகேசன் வயது 55/17 என்பவர் புதுக்கோட்டை அரண்மனை வீதி ரோட்டிலுள்ள ஸ்ரீ கற்பக விநாயக வுட் கார்விங் மற்றும் தட்ச தொழிலகம் உரிமையாளர் திரு.கே.குமரன் என்பவர் மீது அளித்த குற்ற முறையீடு சுருக்கம் புதுக்கோட்டை அரண்மனை வீதி ரோட்டிலுள்ள ஸ்ரீ கற்பக விநாயக வுட் கார்விங் மற்றும் தட்ச தொழிலகத்தில் தன் மகன் திரு.ராஜேஷ் என்பவர் தட்ச வேலை பார்த்து வருவதாகவும் 11.30 மணியளவில் கடை அருகில் குடியிருக்கும் அஜ்மல் அஜித்திடம் தன் மகன் இறந்துவிட்டதாக போனில் தெரிவித்ததாக மில் உரிமையாளரின் மீது நட எடுக்க கூறியது,

அவர்களின் 25.08.2017 அலுவலக ஆணைக்கிணங்க 28.08.2017 (திங்கட்கிழமை புதுக்கோட்டை அரண்மனை வீதி ரோட்டிலுள்ள பின்புறமுள்ள ஸ்ரீ கற்பக விநாயக வுட் கார்விங் மற்றும் தட்ச தொழிலகத்திற்கு புதுக்கோட்டை காவல் உதவி ஆய்வாளருடன் உரிமையாளரை வரவழைத்து ஆய்வு செய்யப்பட்டது. அப்போது (EB Service Connection No.11-015-955)யில் திரு.ராஜேஷ், மு, த/பெ.முருகேசன், என்பவர் 08.08.17 அன்று 9 மணியளவில் மழை பெய்து கொண்டிருக்கும் போது தான் வேலை பார்க்கும் கடையின் பின்புறமுள்ள இரும்பு கேட்டில் சிறுநீர் கழிக்க சென்ற போது இறந்தாக அறிய வந்தது. அவர் சிறுநீர் கழித்த இடத்தில் இரும்பு கம்பி கொண்டு



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செய்யப்பட்ட கூரை ஒட்டி இரும்பு கேட் இருந்தது. மேலும் அந்த கூரையில் பலபு ஒன்று காணப்பட்டது. அந்த பலபுக்கு வெளியில் தெரியும் வண்ணம் தற்காலிக முறையில் ஓயரிங் செய்யப்பட்டுள்ளது. இரும்பு கூரையின் நுழைவாயில் உடைந்த நிலையில் junction box காணப்பட்டது. இரும்பு கூரைக்கும் இரும்பு நுழைவாயிலுக்கும் இடையில் இரும்பு கம்பி ஒன்று துணி காய வைக்க கட்டப்பட்டிருந்தது.

15.11.17 ஆய்விற்கு இவ்வலுவலக பயிற்சியாளர், உ.செ.பொ / புதுக்கோட்டை (கிழக்கு) ஆகியோருடன் ஆய்வு செய்யப்பட்ட போது அனைத்து ஓயரிங் மாற்றப்பட்டு காணப்பட்டது.

15. விபத்துக்கான காரணம் :

பாதுகாப்பாக ஓயரிங் செய்யப்படாததாலும் மின்சாரத்தை எளிதில் கடத்தக்கூடிய இரும்பு கம்பிகளுக்கும், இரும்பு நுழைவாயிலுக்கும் நில இணைப்பு இல்லாததும்.

16. விதிமுறை மீறல்கள் (1) ஒழுங்கு முறை 37(i)(ii), 41(xii), 42, 41 (xiv), (2) மின்சார ஓயரிங் வேலைகளை தமிழ்நாடு அரசு மின் உரிமம் வழங்கும்“ வாரியத்தால் உரிமம் இல்லாத மின் ஒப்பந்தகாரர் மூலம் மின்னமைப்பு செய்தது."

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

13. The judgment of the Hon'ble Supreme Court rendered in **Sarla Verma (Smt.) & Ors. vs. Delhi Transport Corporation & Another,**



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2009 (6) SCC 121, in the context of motor vehicle accident cases under the Motor Vehicles Act, 1988, has been adopted for awarding compensation to the victims of electrocution and accidents etc.

14. If the decision of the Hon'ble Supreme Court in **Sarla Verma's case** [cited supra] has to be applied, the petitioner will be entitled to the following compensation:-

Sl. No.	Heads	Amount
1.	Loss of Income [Rs.12,000/- (Notional Income) + Rs.6,000/- (future prospects) x 17 (Multiplier) x 12]	Rs.36,72,000
2.	Loss of Love and Affection	Rs.50,000
	Total	Rs.37,22,000

15. However, a reading of the report of the Line Inspector as also the F.I.R. registered in Crime No.448 of 2017 indicate that the accident has taken place inside the premises of Sri Karpaga Vinayaga Wood Carving Shop, which is a private premise. Therefore, based on the report filed before this Court, the petitioner cannot expect the Electricity Board to pay compensation on account of electrocution inside the said Sri Karpaga Vinayaga Wood Carving Shop. The petitioner ought to have



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proceeded against the Proprietor of Sri Karpaga Vinayaga Wood Carving Shop for getting any compensation. Therefore, this Writ Petition is liable to be dismissed for the relief sought for before this Court. At the same time, there are Government Orders, a content of which has not been brought to the notice of this Court, which indicate that the Government has to pay solatium on account of unnatural death due to no fault of the victim to the dependants. Therefore, the respondents 1 and 2 are directed to pay the amounts payable as per the Government Orders in case of deaths on account of electrocution towards solatium to the petitioner and recover the same from the Government.

16. The amount shall be paid by the respondents 1 and 2 within a period of 30 days from the date of receipt of a copy of this order and recover the same from the Government in terms of the relevant Government Orders that prevail at the time of accident.

17. This Writ Petition stands disposed of with the above directions.
No costs.

Index : Yes/ No

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Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
jen/smn2

To

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