



A.S.No.164 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

A.S.No.164 of 2024
and
C.M.P.No.5847 of 2024

1.Superintending Engineer,
Vellore Electricity Distribution Circle,
TNEB, Gandhinagar, Vellore.

2.Junior Engineer,
TNEB, Thimiri,
Arcot Taluk, Vellore District.

... Appellants

Versus

1.Usha
2.Minor Krishnasamy
3.Swaminathan
4.Andal
(Minor is rep by his mother, 1st Respondent/Plaintiff)
All are residing at Pillayarkoil Street,
Mosoor Village and Post,
Arcot Taluk, Vellore District.

5.Divisional Engineer,
Planning Telephone,
3rd Floor, No.1, Officer's Line Road,
Vellore – 1.

6.Sub-Divisional Officer,
Telephone Department, Ranipet.

7.The Assistant Engineer,
Telephone Department,



A.S.No.164 of 2024

Thimiri Arcot Taluk,
Vellore District.

.... Respondents

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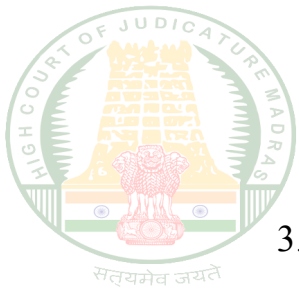
PRAYER Appeal Suit filed under Section 96 of CPC, against the Judgment and Decree dated 25.04.2023 passed in O.S.No.35 of 2021 (P.O.P.No.05 of 2009) on the file of the learned II Additional District Judge, Vellore @ Ranipet.

For Appellants	: M/s.J.Hemalatha Gajapathy
For R1, R3 & R4	: M/s.B.Sundarapandiyan
For R5 to R7	: M/s.S.Anil Sandeep

J U D G M E N T

This Appeal Suit is preferred by the Superintending Engineer, TANGEDCO [Tamil Nadu Generation and Distribution Corporation Limited], Vellore, aggrieved by the judgment and decree of the learned II Additional District Judge, Vellore @ Ranipet in O.S.No.35 of 2021 (P.O.P.No.05 of 2009), dated 25.04.2023 in granting compensation of Rs.16,70,120/- to the wife, legal heirs of the deceased, Senthilkumar, who is alleged to have died due to electrocution.

2. For the sake of convenience, the parties are referred to as Plaintiffs and Defendants as referred in the suit.



A.S.No.164 of 2024

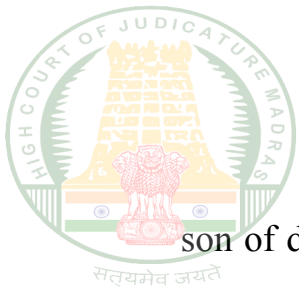
3. The legal heirs of the deceased Senthilkumar, had filed a suit in O.S.No.35 of 2021 on the file of the learned II Additional District Judge, Vellore @ Ranipet, seeking compensation for the death of Senthilkumar due to alleged electrocution.

4. The suit was filed against the TANGEDCO as well as the Telephone Department. The Divisional Engineer Sub Divisional Officer Telephone and Assistant Engineer Telephone were Defendants 1 to 3, they remained *ex parte*. The Superintending Engineer, TANGEDCO, Gandhi Nagar was the 4th Defendant, Junior Engineer, TANGEDCO, Thimiri, is the 5th Defendant. Only Defendants 4 and 5 filed the written statement.

5. Originally, the plaint was filed by the Plaintiffs as Pauper Original Petition (P.O.P.No.5/2009) on the file of the learned Sub-ordinate Judge, Ranipet, Vellore District and it was numbered as O.S.No.44 of 2016 subsequently withdrawn from the learned Sub-ordinate Judge, Ranipet, Vellore District, and transferred to the file of the learned II Additional District Judge, Vellore @ Ranipet and renumbered as O.S.No.35 of 2021.

6. The contents of amended plaint filed by the Plaintiffs in brief are as follows:

The 1st Plaintiff is the wife of deceased Senthilkumar, 2nd Plaintiff is the



A.S.No.164 of 2024

WEB COPY

son of deceased Senthilkumar, 3rd and 4th Plaintiffs are parents of the deceased Senthilkumar. The aforesaid deceased Senthilkumar on 28.03.2008 at 7.00 A.M., was collecting “Thuvarankutchi” and making it as bundles in the field belonging to him, situated at Mosoor Village in Arcot Taluk. A dropped telephone wire was lying uselessly across his land and had become entangled on his legs in the field. He dismantled it by using “Thuvarankutchi”, and removed it away. But due to carelessness in maintenance by the Electricity Board, the live wire, mingled with the dropped telephone wire. He suffered electrocution and was thrown down. He was brought to the hospital. He died on the way to the hospital. This is an accident occurred purely, due to the carelessness and negligent maintenance on the part of the Telephone Department and Electricity Board. The Defendants are responsible for the accident which caused death of the deceased. Hence, the Defendants are liable to pay compensation to the Plaintiffs. Hence, the suit.

7. The contents of Written Statement filed by the 5th Defendant adopted by 4th Defendant in brief are as follows:

The suit is not maintainable as against the Defendants since the proper and necessary party viz., the Chairman of the Electricity Board has not been added as a party and hence the same is liable to be dismissed for non-joinder of necessary party. The truth of the matter is that the electric wire passed 50 meters away from the accidental spot and it was at a height 25 feet above the



A.S.No.164 of 2024

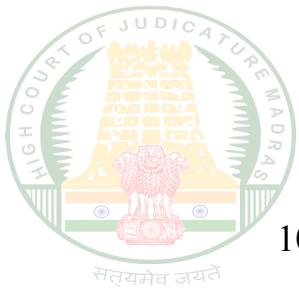
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ground level while the unused telephone wire hanging in the telephone pillar was merely at a height of 12 feet. So it is impossible to come in contact with current in the telephone wire. Therefore, the claim that Senthilkumar died due to the carelessness and negligence in maintenance on the part of the both Telephone Department as well as the staff of the Electricity Board, is not correct. The accident occurred not due to the negligence of the Board Officials but due to the carelessness of the deceased. The Plaintiffs have not suffered any damages. There is absolutely no cause of action for the suit and the cause of action alleged is false. Hence the suit is to be dismissed.

8. On the basis of pleadings, the following issues were framed on 27.02.2017 for consideration:-

1. Whether the accident occurred due to the carelessness and negligent in maintenance on the part of Telephone Department and Electricity Board?
2. Whether the Plaintiffs are entitled to the reliefs as prayed for?
3. To what other reliefs, if any, the Plaintiffs are entitled to?

9. During trial, on the side of Plaintiffs – first and third Plaintiffs were examined as P.W-1 and P.W-2 and one V.R.Mugunthan was examined as P.W-3 and 12 documents were marked as Ex.A-1 to Ex.A-12. On the side of the Defendants on Yuvaraj, Assistant Engineer was examined as D.W-1 and one document was marked as Ex.B-1.



A.S.No.164 of 2024

10. On assessment of evidence, the learned II Additional District Judge, Vellore @ Ranipet, by judgment dated 25.04.2023 in O.S.No.35 of 2021 decreed the suit of the Plaintiffs against the Defendants.

11. As per the decree granted by the learned II Additional District Judge, Vellore @ Ranipet, the Defendants should jointly and severally pay the amount of a sum of Rs.16,70,120/- to the Plaintiffs within 2 months with interest at the rate of 7.5% per annum from the date of presentation of the suit (17.11.2009) in the form of Pauper O.P till the date of payment of the said amount. The Plaintiffs are then to pay the Court fee for the amount claimed in the suit on receipt of the compensation as per law.

12. Aggrieved, the Superintending Engineer, TANGEDCO, has filed this appeal raising the following grounds:

12.1. The Trial Judge failed to apply his mind. Regarding the question of negligence, it is purely on the deceased person, because he being educated person should have knowledge, in dealing with the snapped wire in his field.

12.2. The Trial Judge erred in arriving at the conclusion that the accident occurred due to the negligence of the Appellants herein, as it was the deceased person who without application of mind voluntarily removed the snapped telephone wire which clearly proved that the accident occurred due to



A.S.No.164 of 2024

the negligence of the deceased person.

WEB COPY 12.3. The Trial Judge had wrongfully directed the Appellants herein to pay the compensation along with D-1 to D-3 when there is no negligence on their part and without considering the failure of maintenance by D-1 to D-3 which is the major factor of the accident. Therefore, the Appellants contend that the judgment of the learned II Additional District Judge, Vellore @ Ranipet, is perverse warranting interference by this Court exercising the power of Appeal under Section 96 read with Order XLI of CPC.

13. The learned Counsel for the Appellants invited the attention of this Court to the written statement of the Defendants in the suit:

Accident happened in the private land owned by the deceased person. On 28.03.2008, when the deceased person got electrocuted when he was collecting the Thuvrankutchi from his land, the said electrocution happened when he tried to remove the telephone wires which was rolled in his legs which was mingled with electric line. He had expired on the way to hospital. The said incident shows the clear negligence of the deceased person. The claim that the deceased Senthilkumar was earning Rs.10,000/- per month, is not admitted. It was submitted that the deceased, Senthilkumar was not supporter of the family and that he was living alone. The suit is barred by limitation since the Plaintiffs have not filed the suit within the period of one year from the death of death. No



one in that village inclusive of the owner of the land ever complained about the damage of the electric wire as pleaded by the Plaintiffs in the plaint. In the plaint, they have pleaded that the private land was regularly in use as pathway, even the victim or her family had not complained about the damage in the line as alleged in the plaint.

14. The learned Counsel further drew the attention of this Court to the evidence of the Plaintiffs. Three witnesses are examined, P.W-1 – Usha, P.W-2 – Swaminathan, P.W-3 – V.R.Mukundhan and marked the documents as Ex.A-1 to Ex.A-12. The cross examinations of P.W-2 and P.W-3 are as follows:

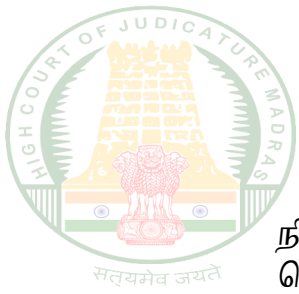
Cross-examination of P.W-2:

வா.சா.ஆ¹ முதல் தகவல் அறிக்கையில் துவார குச்சிகளை எடுத்து டெலிபோன் கம்பத்தில் இருந்து ஓயர் அறுந்து தொங்கிக்கொண்டிருந்ததை அதில் கட்டியுள்ளார் என்று குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். மின்சார ஓயர் அறுந்து விழவில்லை டெலிபோன் ஓயர் அறுந்து மின்சார ஓயரில் பட்டு தொங்கி கொண்டிருந்தது என்றால் சரிதான்.

Hence P.W-2 is contra in deposition, that was not taken in consideration for deciding the occurrence of the accident.

Cross-examination of P.W-3:

4 மற்றும் 5 பிரதிவாதிகளின் தரப்பில் குறுக்கு விசாரணை மேற்படி செந்தில்குமாரின் பணி நியமான ஆவணத்தை தாக்கல் செய்யவில்லை செந்தில்குமாரின் அடிப்படை சம்பளம் ரூ.3375/- என்றால் சரிதான். 07.01.2008ம் தேதி செந்தில்குமார் வாங்கிய நிகர சம்பளம் ரூ.6199/- ஆகும். அவருடைய மொத்த சம்பளம் ரூ.6950/- ஆகும். மேற்படி செந்தில்குமார் எங்கள்



A.S.No.164 of 2024

WEB COPY

நிறுவனத்தின் நிரந்திர பணியாளர் ஆவார் கடைசியாக செந்தில்குமார் வாங்கிய மொத்த சம்பளம் ரூ.7260/- அவருடைய நிகர சம்பளம் ரூ.6514/- ஆகும். செந்தில்குமார் கடைசி மாதத்தில் இடையிலேயே இறந்துவிட்டதால் அதற்குரிய சம்பளத்தை மட்டும் அவருடைய மனைவியிடம் 05.04.2008ம் தேதி கொடுத்துவிட்டோம் அந்த நிகர சம்பளம் ரூ.4847/- எமாத்த சம்பளம் ரூ.6525/- ஆகும். மேற்படி செந்தில்குமாரின் நிகர சம்பளம் சராசரியாக ரூ.6514/-க்கு மிகையாகவில்லை னு என்றால் சரிதான் எனக்கு செந்தில்குமாரை தனிப்பட்ட முறையில் தெரியாது என்றால் சரிதான்.

15. On the side of Defendants 4 and 5, one witness was examined, D.W-1 – Thiru.Yuvaraj (Assistant Engineer) and marked the document under Ex.B-1.

16. The trial Court had passed a decree and judgment by directing the Defendants to pay a compensation of Rs.16,70,120/- to the Plaintiffs with interest at the rate of 7.5% per annum from the date of pauper original petition till the date of depositing of entire amount.

17. The learned Counsel for the Appellants submitted that the trial Court had not considered the fact that the accident happened due to the negligence of the deceased person. The deceased being an educated person and with knowledge of handling a snapped wire of Telephone Department had negligently dragged the telephone wire with an intention to tie the same for his Thuvarai Kutchi. The said negligent action had caused the E.B line to be cut



off and connected with the snapped telephone wire. Further, in the FIR under

Ex.A-1 it is stated that the deceased caught hold of the snapped telephone wire and pulled it towards him and tried to tie the same to the pole. In the said process, the deceased suffered electrocution and died on the way to the hospital. Therefore, it is clear that the accident took place due to negligence on the part of the deceased Senthilkumar. There is no negligence on the part of the Appellants herein and the said accident happened in the private land. The Trial Court ought to have dismissed the suit based on the evidence deposited by P.W-2 which reads as under:

Cross-examination of P.W-2:

வா.சா.ஆ1 முதல் தகவல் அறிக்கையில் துவார குச்சிகளை எடுத்து டெலிபோன் கம்பத்தில் இருந்து ஓயர் அறுந்து தொங்கிக்கொண்டிருந்ததை அதில் கட்டியுள்ளார் என்று குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான்.

P.W-2 is not an eye witness of the accident and the accident was intimated to the Police by the VAO only.

18. The trial Court ought to have dismissed the suit against the Appellants since the accident happened on the private land owned by the deceased person. I is not case of the Plaintiffs that the power line got snapped down from the line and caused electrocution. In FIR (Ex.A-1) it is clearly mentioned that when the deceased caught hold of and pulled the telephone wire



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hanging on his land, he snapped it from the telephone post and tried to tie the same, in the said process the said telephone wire came in contact with the high tension power line running along the Eastern portion of his land and he died due to electrocution on the way to the hospital.

19. In support of the contention, the learned Counsel for the Appellants relied on the following rulings:

19.1. The Hon'ble Supreme Court in the decision reported in **2002 (1) SCR 164 (M.P. Electricity Board Vs. Shail Kumari and Ors. in Appeal (Civil)**

180 of 2002 held as follows:

“Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability, i.e., the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as “strict liability”. It differs from the liability which arises on account of the negligence or fault in this way, i.e., the concept of neg' comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the Defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the Defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.”

19.2. The Hon'ble Supreme Court in decision in the case of **S.D.O.Grid Corporation of Orissa Limited & Ors. Vs. Timudu Oram in Appeal (Civil)**

1726 of 1999 wherein it is held as follows:



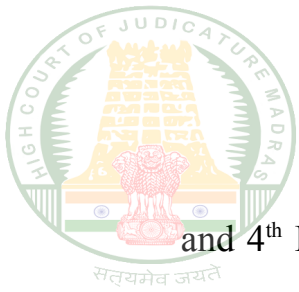
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“In Chairman, Grid Corporation of Orissa Ltd. (Gridco) and others (supra) with which case these appeals were listed for hearing but could not be heard for want of service this Court took the view that the High Court committed an error in entertaining the writ petitions under Article 226 of the Constitution of India and were not fit cases for exercising the jurisdiction under Article 226 of the Constitution of India. It was held that actions in tort and negligence were required to be established initially by the claimants. The mere fact that the wire of electric transmission line belonging to the Appellant had snapped and the deceased had come into contact with it and died by itself was not sufficient for awarding compensation. The Court was required to examine as to whether the wire had snapped as a result of any negligence on the part of the Appellants, as a result of which the deceased had come in contact with the wire. In view of the defence raised and the denial by the Appellants in each of the cases, the Appellants deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission line and yet the wires had snapped because of the circumstances beyond their control or unauthorised intervention of third parties. Such disputed questions of fact could not be decided in exercise of jurisdiction under Article 226 of the Constitution of India. That the High Court could not come to the conclusion that the defence raised by the Appellants had been raised only for the sake of it and there was no substance in it.”

19.3. The Hon'ble Supreme Court in the decision reported in **1999 Supp(2) SCR 458 (Chairman Grid Corporation of Orissa Ltd. (GRIDCO) & Ors. Vs. Smt.Sukamani Das and Another Etc) in Appeal (Civil) 5074 of 1999** has held as follows:

“In this batch of 10 appeals the question which arises for consideration is whether the High Court was justified in exercising its power under Article 226 of the Constitution and awarding compensation to the writ petitioners even though the Appellants who were the Respondents in the said writ petitions had denied their liability on the ground that the deaths had not occurred as a result of their negligence, but because of an act of God or of acts of some other persons.”

20. The learned Counsel for the Respondents submitted that the Plaintiffs/1st Respondent namely Usha is the wife of the deceased, Senthilkumar, 2nd Respondent is the minor son of deceased Senthilkumar, 3rd



A.S.No.164 of 2024

and 4th Respondents are the parents of deceased Senthilkumar. On 28.03.2008

at 7 a.m., the said deceased Senthilkumar was collecting “Thuvarangkuchi” and was making it is as bundles in the field belonging to him, situated at Mossor Village, Arcot Taluk. A dropped telephone wire was lying uselessly across his land and had become entangled on his legs in the filed. He dismantled it by using “Thuvarangkuchi” and removed it away. But due to carelessness in the maintenance by the Electricity Board, a live wire came in contact with the dropped telephonic wire. Deceased suffered electrocution and was thrown out. He was brought to hospital but he died on the way to the hospital. This is an accident occurred purely due to the carelessness and negligent in maintenance on the part of the Telephone Department and Electricity Board.

21. The learned Counsel further submits that the deceased Senthilkumar was a post graduate which was marked as Ex.A-10. He was hale and healthy. He was working in a private company as a permanent employee, the confirmation letter was marked as Ex.A-9 and he was paid Rs.10,000/- per month which was marked as Ex.A-11 and salary slip was marked as Ex.A-12. Moreover he was selected for forest department. If he had not died, he would have been employed in a higher position and would have earned more and supported his family. More particularly after the death of deceased



A.S.No.164 of 2024

Senthilkumar, the Plaintiff/1st Respondent is only 23 years old and has a 2 year old child. The 1st Respondent is a young widow who lost her husband. The sudden demise of the deceased created a great mental torture and agony to them.

22. The first Respondent further submits that, in the postmortem report of Senthilkumar under Ex.A-2, there is a clear reference about the fact that the deceased died due to cardio respiratory arrest due to electrocution. It is very clear that, the deceased died due to electrocution on account of negligence on the part of the appellants herein. The Plaintiffs/1st Respondent and others had filed a suit in O.S.No.35 of 2021 on the file of the learned II-Additional District Judge, Vellore @ Ranipet claiming the compensation of about Rs.20,00,000/- against the appellants herein. After a full-fledged trial, the same was decreed on 25.04.2023 that, *"the suit is partly decreed that the defendants should jointly and severally pay the amount of a sum of Rs. 16,70,120/- to the Plaintiff within 2 months from today with interest at the rate of 7.5% per annum from the date of presentation of the suit in the form of pauper O.P. till the date of payment of the said amount and with cost"*.

23. It is further submitted that the Trial Court rightly framed issues No.1 and 2, which are as follows:



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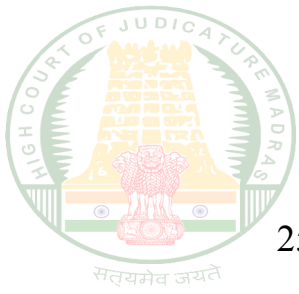


A.S.No.164 of 2024

Issue No.1 "Whether the accident occurred due to the carelessness and negligent maintenance on the part of Telephone Department and Electricity Board?"

Issue No.2 "Whether the plaintiffs are entitled to the reliefs as prayed for?"

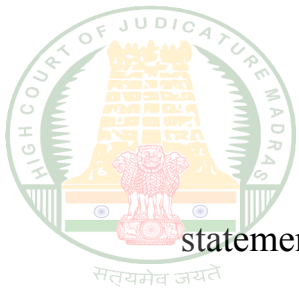
24. The Trial Court rightly held in Para No.13 of the judgment in O.S.No.35 of 2021: *"Moreover it appears from the death certificate that the age of the deceased Senthilkumar is mentioned as 33 years. Therefore being a self-employed person as per the judgments in National Insurance Company Ltd., Vs. Pranay Sethi and others reported in 2017(2) TNMAC page 609 (SC) and in Sarala Varma and others Vs. Delhi Transport Corporation and another reported in 2009(2) TNMAC Page 1 SC related to the methodology to be adopted in fixing the quantum of compensation with regard to the motor accident claim cases, this Court feels that in the interest of justice the said methodology is to be adopted in fixing the compensation in this matter as this case is also related to the death of the individual who died on account of negligence on the part of the defendants which caused a great loss to his family members viz., Plaintiffs. Hence this Court followed the yardstick formulated in the above said judgments and fixed the quantum of a sum of Rs.16,70,120/- towards the compensation to the plaintiffs with reasonable interest".*



A.S.No.164 of 2024

25. The first Respondent submits further that, Defendants/Appellants herein filed an appeal suit in A.S.No.164 of 2024 to set-aside the judgment and decree dated 25.04.2023 passed in O.S.No.35 of 2021 (P.O.P. 05 of 2009). The first Respondent filed an interim application to deposit the compensation amount and the same was ordered, but till date the compensation amount has not yet been deposited in the first Respondent account. It was only due to the carelessness and negligence of the Telephone Department and Electricity Board, the first Respondent's spouse died. While being so, till date the Respondents herein have not received the compensation awarded to them. It is totally illogical and unacceptable. A young widow is struggling to maintain her child and old aged in-laws day to day without anyone's support. The 1st Respondent's spouse died in the year of 2008. Now it is the year 2024 (more than 16 years has passed) and a single woman is still fighting and struggling to get her right of compensation.

26. Regularly in the media it is highlighted in the city as well as in suburban villages surrounding city that the TANGEDCO lines are loosened due to action of the wind but there has been no preventive measures taken by the TANGEDCO officials. Invariably there are news item of death due to electrocution which is sufficient for the Court to arrive at a conclusion that there was negligence. The Electricity Board/TANGDECO filing written



A.S.No.164 of 2024

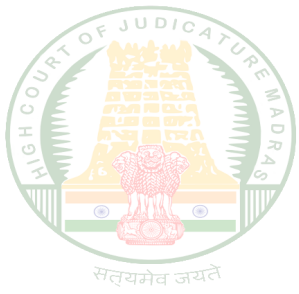
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statement that they are not liable cannot at all be accepted in a country where the Constitution is framed on Welfare State principles. The reported ruling involving Orissa Electricity Board is the case where Orissa High Court had granted relief to the victim exercising Article 226 which was deprecated by the Hon'ble Supreme Court so that will not help the case of the Defendants in this case. It is a matter of evidence to prove negligence. Therefore, Civil Court alone has jurisdiction and not High Court exercising power under Article 226 of the Constitution of India. The said ruling will not help the Defendants in this case. Hence, the rulings relied on by the learned Counsel for the Appellants is to be rejected.

Point for Determination:

Whether the judgment of the learned II Additional District Judge, Vellore @ Ranipet, O.S.No.35 of 2021 dated 25.04.2023 is perverse warranting interference by this Court?

27. Heard the learned Counsel for the Appellants Ms. J. Hemalatha Gajapathy, the learned Counsel for the Respondents 1, 3 and 4 and the learned Counsel for the Respondents 5 to 7. Perused the original records and the Judgment and Decree dated 25.04.2023 passed in O.S.No.35 of 2021 (P.O.P.No.05 of 2009) on the file of the learned II Additional District Judge, Vellore @ Ranipet.



A.S.No.164 of 2024

WEB COPY 28. On perusal of the judgment of the learned II Additional District Judge, Vellore @ Ranipet and the submissions of the learned Counsel for the Appellants that the judgment of the learned II Additional District Judge, Vellore @ Ranipet in O.S.No.35 of 2021 is erroneous cannot at all be accepted.

29. It is a simple fact that the VAO of Mosur, had preferred a complaint, based on which an FIR was registered in Crime No.100 of 2008 on the file of the Thimiri Police Station under Section 174 of Cr.P.C, death due to electric shock.

30. On perusal of the same, it is found that he had stated that the deceased, Senthilkumar attempted to tie the snapped telephone wire to the telephone post and at that time he was thrown off due to electrocution. He was taken to the hospital by the persons nearby. On reaching the hospital, he was declared, “brought dead”. This is the First Information Report lodged by VAO of Mosur, the village under whose jurisdiction the occurrence had taken place. The First Information Report is given by the VAO of Mosur regarding unnatural death of a young man aged about 33 years as per the postmortem report. Since the occurrence stated by VAO implicates the Telephone

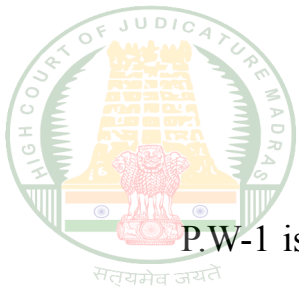


A.S.No.164 of 2024

Department and the authorities of the Telephone Department were impleaded as Defendants 1 to 3 they did not file written statement. They remained *ex parte*.

31. The written statement of Defendants 4 and 5, the Engineers of the TANGEDCO of Vellore Distribution Circle had stated that there was no complaint of poor maintenance of electric lines by either the deceased, Senthilkumar during his life time or any of the people in the village against the Defendants regarding lack of maintenance. Therefore, imposing liability on Defendants 4 and 5 does not arise. Further, it is stated that the deceased person himself had attempted to remove the telephone wire hanging from the pillar and attempted to tie it with the telephone post. Therefore, he was electrocuted and it does not mention anything about TANGEDCO. Therefore, they have sought dismissal of the suit against Defendants 4 and 5.

32. The learned Counsel for the Appellants (Defendants before the learned II Additional District Judge, Vellore @ Ranipet) had invited the attention of this Court to the cross-examination of P.W-1, the wife of the deceased, Senthilkumar. She stated clearly that she had not witnessed the occurrence. The occurrence was witnessed by her father-in-law as it was her father-in-law who took her injured husband to the Hospital. The evidence of



A.S.No.164 of 2024

P.W-1 is found hearsay. At the same time, there are ample evidence before the Court that the young man aged about 33 years died due to electrocution. It is a common knowledge that touching the telephone wire will not cause electrocution.

33. It is the specific case of the Plaintiffs that the telephone wire got entangled with the electric line due to lack of maintenance by both the Telephone Department as well as the Electricity Board. Since the deceased died due to electrocution, the learned Judge had on the basis of appreciation of evidence from the point of view of an ordinary prudent man fixed the liability on both the parties. The Telephone Department as well as TANGEDCO and had decreed the suit thereby imposing liability equally on Telephone Department as well as TANGEDCO. Just because the TANGEDCO was imposed with liability, the claim made by Defendants 4 and 5 before the learned II Additional District Judge, Vellore @ Ranipet as Appellants before this Court that the judgment is erroneous cannot at all be accepted. The Judges while analysing the evidence particularly in civil cases appreciate the preponderance of probability of cases based on which only the suits are disposed. Here it is a fact that the young man aged 33 years died due to electrocution. The electrocution happened only when the telephone wire snapped when he attempted to remove the snapped telephone wire and tie it to

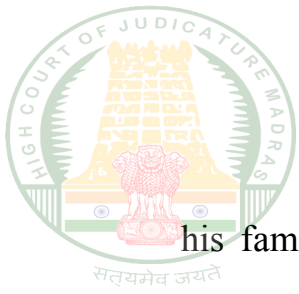


A.S.No.164 of 2024

WEB COPY

the telephone post. Therefore, there is negligence on the part of the Electricity Board as well as the Telephone Department.

34. In support of the claim of the Defendants in the written statement, the Assistant Engineer of the TANGEDCO was examined as D.W-2. He had in his evidence as an examination-in-chief stated the facts as stated in the written statement. In the cross-examination, he claimed that he had not served in the office having territorial jurisdiction over the place of occurrence at the time of occurrence. He claims ignorance regarding the telephone lines and intertwining of the telephone and TANGEDCO lines. He admitted in the cross-examination that the staff of the TANGEDCO visited the place of the occurrence. He claimed ignorance regarding the telephone wire. Touching the telephone wire will not cause electrocution was the suggestion by the learned Counsel for the Plaintiffs. For which, the Engineer who has expertise in electrical engineering claims ignorance. This facts itself goes against the Defendants. Defendants 1 to 3 (Telephone Department) did not have any valuable defense in their favour. Therefore, they left it *ex parte*. Whereas Defendants 4 and 5 TANGEDCO questioned the maintainability of the suit by filing written statement disputing the claim of the Plaintiffs but the Defendants were unable to prove that the deceased died due to his own negligence. It is common knowledge that any person expecting danger to his life as well as to

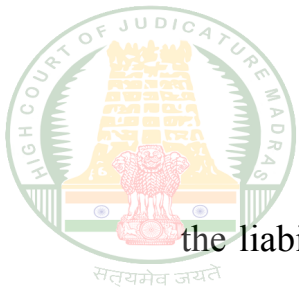


A.S.No.164 of 2024

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his family members will not attempt to remove dangerous objects from his place of residence or place of work. Here, the deceased had attended his field to supervise his farm and at that time he noticed that the telephone wire had snapped. Since it was a telephone wire, he wanted to tie it to the telephone post. When he touched the telephone wire, he was thrown out. Only when he was brought to the Hospital, they found that there was injury on the left hand caused due to electrocution. It is common knowledge that only when there is involvement of TANGEDCO wire, the deceased would have met with the accident. The claim of the Appellants before this Court that the learned II Additional District Judge, Vellore @ Ranipet, had upon wrong appreciation of fact or misrepresentation or misdirected himself and granted a decree in favour of the Plaintiffs, is erroneous.

35. The reasoning of the learned II Additional District Judge, Vellore @ Ranipet, cannot be faulted from the point of view of a ordinary prudent man. A person gets electrocuted only due to negligence on the part of the electricity Department/TANGEDCO. Here, he was in his farm, he noticed telephone wire hanging from the post. Therefore, he attempted to tie the telephone wire to the telephone post as he was sure that it will not cause harm or shock. instead the telephone wire got entangled with the electricity wire which resulted in his suffering electrocution. Therefore, Defendants 1 to 5 had been directed to share



A.S.No.164 of 2024

the liability. The judgment of the learned II Additional District Judge, Vellore @ Ranipet, cannot be faulted.

36. The rulings relied on by the learned Counsel for the Appellants reported in **2002 (1) SCR 164 (M.P. Electricity Board Vs. Shail Kumari and Ors. in Appeal (Civil) 180 of 2002**, will not help the case of the Appellants as the facts of the case are different. In the reported decision, the Plaintiffs before the Trial Court was the widow of the deceased. As per the case of the Plaintiffs in the reported decision her husband was riding cycle and the cycle was driven over the snapped wire lying on the road. When the cycle came in contact with the snapped wire on the road, the cyclist was thrown out due to electrocution and consequently died. It is the case of the M.P. Electricity Board before the Trial Court that the electric line did not snap due to improper maintenance, but the line was drawn by pilferers to pilfer the electricity for their own industrial purposes. The cyclist, without noticing the snapped wire, ran over it.

37. The claim of the **M.P. Electricity Board Vs. Shail Kumari and Ors** was dismissed by the Hon'ble Supreme Court in the reported decision **S.D.O.Grid Corporation of Orissa Limited & Ors. Vs. Timudu Oram in Appeal (Civil) 1726 of 1999**, wherein the Hon'ble Supreme Court held that compensation cannot be granted by the High Court in cases involving death



A.S.No.164 of 2024

due to electrocution, by exercising inherent power of the High Court under Article 226 of the Constitution of India.

38. The ratio of the Hon'ble Supreme Court reported in **1999 Supp(2) SCR 458 (Chairman Grid Corporation of Orissa Ltd. (GRIDCO) & Ors. Vs. Smt.Sukamani Das and Another Etc) in Appeal (Civil) 5074 of 1999**, also will not help the case of the Appellants herein. For electrocution, Electricity Board/TANGEDCO is liable. The contents of the written statement cannot at all be accepted by any Court of law. It is of common knowledge that persons/general public have repeatedly complained against the Electricity Board for lack of maintenance. Judges as members of the public can also observe this on their daily trips. The electric poles and the electric lines in the streets as well as places across the street when there is storm strong electric lines are switched off as a precautionary measure. It is well reasoned and good. At the same time, it is the duty of the TANGEDCO to maintain the post as well as electric lines in such a manner that on normal times due to action of wind and rain, the lines had not snapped or telephone lines do not come in contact with electricity lines. If the Electricity Board, TANGEDCO and the Telephone Department engineers had been vigilantly involved in their work in protecting the common man from unexpected risk or expected risk due to natural causes, such as rain and wind, they should have placed or drawn telephone wire away



A.S.No.164 of 2024

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from the electric lines. It is a clear evidence from the cross-examination of the Electricity Board/TANGEDCO engineer as D.W-1 that he himself visited the place of occurrence after assuming charge and he found that telephone lines were removed after. If the engineers of the Telephone Department were careful, they could have drawn the telephone line away from the electricity lines. If the TANGEDCO engineers had been vigilant they should have protested to the Telephone Department for drawing telephone line closely along the TANGEDCO line. In this place, both the Defendants did not take into consideration the risk put to the common man by their negligence. Therefore, the Plaintiffs had rightly impleaded both the Telephone Department as well as TANGEDCO. It is for TANGEDCO to explain how a young man aged 33 years in his youthful days had lost his life. On reassessment of evidence by this Court, this Court cannot accept the contention of the learned Counsel for the Appellants TANGEDCO before this Court that the learned Trial Judge erred by misdirecting himself by arriving at a conclusion that the Defendants are liable for the loss of life thereby awarded compensation ignoring the fact that the deceased himself was responsible for his death. No prudent man will touch an electric line. Here, it was a snapped telephone wire. When the snapped telephone line was hanging in such a manner it touched his head and expecting danger he had removed the dangling telephone wire and attempted to tie it to the telephone post. When he touched the dangling telephone line which was in

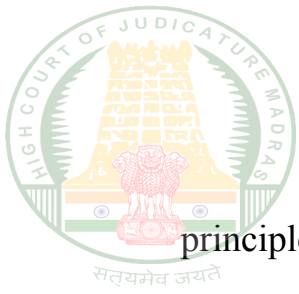


A.S.No.164 of 2024

contact with the electric line belonging to the TANGEDCO he was thrown out.

Persons nearby took him to the hospital. By the time he reached Hospital he was pronounced dead. Therefore, by all means Defendants 1 to 5 in this suit are liable to pay compensation to the victim of electrocution. It is too hyper technical from the point of view of an ordinary prudent man that the Telephone Department is liable and the TANGEDCO is not liable. The said contention of the Appellants cannot be accepted. While appreciating the evidence the learned Trial Judge is expected to appreciate evidence based on point of view of an ordinary prudent man. If the materials are assessed by this Court independently, this Court also arrives at the same conclusion that the conduct of the Defendants 1 to 5 in O.S.No.35 of 2021 before the learned II Additional District Judge, Vellore @ Ranipet, was the cause of death of a young youthful man aged 33 years. Therefore, the grant of compensation directing the Defendants to equally share the compensation is found justified and it cannot be erroneous. It is a well reasoned judgment that does not warrant any interference by this Court exercising the power of Appeal under Section 96 of Code of Civil Procedure or order XLI of CPC.

39. In the reported decision in **2003 (68) DRJ 128 (DB)** in the case of ***Association of Victims of Uphaar Tragedy and Others vs. Union of India and Others***, the Division Bench of the Hon'ble Delhi Court by following the

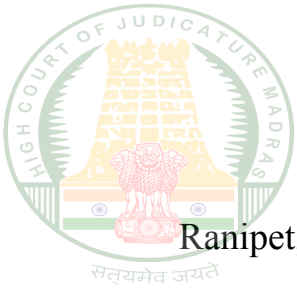


A.S.No.164 of 2024

WEB COPY

principles of Motor Vehicles Accident Compensation cases had awarded compensation to each of victims of fire accident who suffered burns, for each of the individuals whose dependants died in the fire accident. The arguments of the learned Counsel for the Appellants that the learned trial Judge had erred in calculating the compensation based on the principles under the Motor Vehicle Act in which accident victims are granted compensation. The said submission of the learned Counsel for the Appellants (Defendants before the trial Court)/TANGEDCO cannot at all be accepted as the Uphaar Tragedy victims were compensated by the Hon'ble High Court of Delhi based on the principles awarding compensation under the Motor Vehicles Act even though it was not a Motor Accident. The decision of the Hon'ble High Court of Delhi in **2003 (68) DRJ 128 (DB)** in the case of *Association of Victims of Uphaar Tragedy and Others vs. Union of India and Others*, was upheld by the Hon'ble Supreme Court in the case of *Municipal Corporation of Delhi vs. Uphaar Tragedy Victims Association and others* reported in **(2011) 14 SCC 481**.

40. In the light of the above discussion from paragraphs 28 to 39, **the Point for Determination is answered in favour of the Plaintiffs and against Defendants 4 and 5**. The judgment and decree dated 25.04.2023 passed in O.S.No.35 of 2021 by the learned II Additional District Judge, Vellore @



A.S.No.164 of 2024

Ranipet, is found proper which does not warrant any interference by this Court.

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In the result, the **Appeal Suit stands dismissed with costs throughout.**

The judgment and decree dated 25.04.2023 passed in O.S.No.35 of 2021 by the learned II Additional District Judge, Vellore @ Ranipet, is confirmed.

Consequently, connected Miscellaneous Petition is closed.

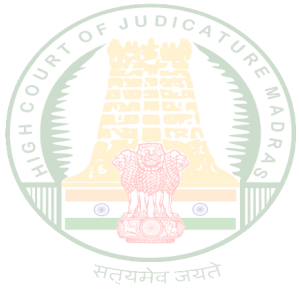
01.07.2025

cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No



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A.S.No.164 of 2024

SATHI KUMAR SUKUMARA KURUP, J.,

cda

To

- 1.The II Additional District Judge, Vellore @ Ranipet.
- 2.The Section Officer,
VR Section, High Court,
Chennai.

A.S.No.164 of 2024

01.07.2025