

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.2248 of 2002  
and  
WPMP.No.3113 of 2002

A.Siluvaimuthu

.. Petitioner

Versus

1.The Tamil Nadu Electricity Board,  
Rep. by its Chairman,  
800, Anna Salai,  
Chennai - 2.

2.The Executive Engineer,  
Tamil Nadu Electricity Board,  
O & M / Tambaram, CEDC/South,  
Chennai - 600 045.

3.Grija David  
Star Children Home,  
No.30, T.V.Lakshmi Street,  
Agaram Than, Chennai-73.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2<sup>nd</sup> respondent dated 27.3.2001 and quash the same and direct the respondents to pay a just and reasonable compensation towards the death of the petitioner's son at the age of 12 years by electrocution.

|                      |   |                  |
|----------------------|---|------------------|
| For Petitioners      | : | Mr.K.Selvaraj    |
| For Respondents 1 &2 | : | Mr.P.Gunaraj     |
| For Respondent 3     | : | Mr.A.Abdul Wahab |

ORDER

The petitioner herein, by name A.Siluvaimuthu, has filed this Writ Petition to set aside the order passed by the respondent-Board, by which, the respondent-Board refused to grant compensation for the death of his son, named Anthony Raj, who was aged about 12 years at that point of time, and died due to electrocution.

2. The case of death is not in dispute, because of heavy wind, overhead electric wire near the third respondent's premises had got disconnected, and was lying on the floor, and the petitioner's son, who came into contact with the live wire was electrocuted and died on the spot. Regarding the said incident, a case was registered in Crime No.732 of 2000, on the file of C-8, Selaiyur Police Station, for offence under Section 174 of the Code of Criminal Procedure. The petitioner made a claim before the respondent-Board, stating that the Board has to compensate the petitioner for the death of his son.

3. The second respondent-Board, vide their reply, dated 27.03.2001, while admitting the fact that the wire had got disconnected, took a stand that only the neutral wire was disconnected, and it will not conduct electricity, and the alleged accident happened due to natural calamity, and there is no negligence on the part of the Electricity Board. Further, they would state that, if there is no possibility for TNEB officials for seeing, or ascertaining the alleged accident, and the alleged accident is stated to have occurred in an agricultural field, which is about 200 meters away from the premises of the third respondent. Thus, the respondents-Board does not dispute the accident, but would state that, due to force-majeure conditions, the electric wire got snapped and the boy was electrocuted.

4. It is seen that the boy was admitted in the third respondent/ Children Home. The learned counsel for the petitioner would submit that due to poverty, the petitioner was compelled to leave his son under the care and custody of the third respondent-Children Home, who took care of his son and also imparted education, and he was studying in VI Standard and it is not as if, the petitioner has deserted his son nor he has no love for him. It is reiterated by the learned counsel appearing for the third respondent, the Children Home is not an orphanage, but only an hostel run by Christian Missionary to help the down-trodden, like the petitioner.

5. In the light of the above, the following facts emerges that the petitioner's son died due to electrocution, and the death was instantaneous, as he came into contact with the electrical wire. It is not in dispute that the electrical installation belonged to the respondent-Board and they were bound to maintain the same in good condition. Even according to the respondent-Board, the snapping of the wire was due to heavy wind. Therefore, if proper maintenance work had been undertaken by the respondent-Board, that would have perhaps, prevented the snapping of the wire. The petitioner's son was a young boy of 12 years, studying in VI standard. The petitioner himself has stated to be living below the poverty line, and he has no other means and he has been put to great mental agony and hardship on

account of untimely demise of his son. The petitioner would state that he had many plans for his son and wanted him to be highly educated and not to suffer like him and that is why, with all difficulty, he had to place his son in the third respondent-hostel. Thus, the respondents having admitted that the wire had snapped they cannot wriggle out of their liability of paying compensation, by stating that it is an act of God. If the maintenance was proper, the wire would not have snapped. It is not a case where there is any flood or very big natural calamity, where the poles themselves got up-rooted. It is an admitted case of snapping of wire. Therefore, the respondent-Board is liable to pay compensation. Though the present proceedings is in a Writ Petition, this Court could mould the relief in cases where the negligence is evident, and the accident speaks for itself, there is no necessity to direct the petitioner to approach the Civil Court.

6. The learned counsel appearing for the respondent-Board submits that in similar type of cases, the Hon'ble Supreme Court has directed payment of compensation to the extent of Rs.3,00,000/- in cases where the deceased is less than fifteen years. In the instant case, the petitioner's son was aged about twelve years and undergoing his education, and he was in class VI and this Court is of the view that a sum of Rs.3,00,000/- could be paid as compensation as full and final settlement of the claims against the respondent Board.

7. Accordingly, this Writ Petition is allowed directing the second respondent to pay a sum of Rs.3,00,000/- to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order, on account of the demise of the petitioner's son Anthony Raj, who died due to electrocution on 01.10.2000. No costs. Consequently, connected WPMP is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To:

- 1.The Tamil Nadu Electricity Board,  
Rep. by its Chairman,  
800, Anna Salai,  
Chennai - 2.

2.The Executive Engineer,  
Tamil Nadu Electricity Board,  
O & M / Tambaram, CEDC/South,  
Chennai - 600 045.

+1 cc to M/s.M.A.Abdul Wahab, Advocate, sr.61089  
+1 cc to Mr.P.Gunaraj, Advocate, sr.63146

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kra 1.12.2015



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