

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2016

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.1184 of 2011

- 1.Saleth Mary
- 2.Elizabeth Rani
- 3.Yesu Raj
- 4.Simeone Raj
- 5.Vinnarasi

.. Petitioners

-Vs-

- 1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Villupuram District.
- 2.The Executive Engineer,
Tamil Nadu Electricity Board,
Sankarapuram,
Villupuram District.
- 3.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Devapandalam,
Sankarapuram Taluk,
Villupuram District.

... Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to pay a compensation of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the petitioners for the electrocution death of petitioner's husband and pass such orders.

For Petitioner : Mr.M.Manohar
for Mr. G. Rajan

For Respondents : Mr.M.Varunkumar

ORDER

This writ petition has been filed seeking a direction to the respondents to pay compensation to the tune of Rs.10 Lakhs for the electrocution death of the husband of the petitioner herein.

2. It is the case of the petitioner that her husband is a Christian devotee and he always used to attend the celebrations and festivities in the village. Petitioner's husband used to sing songs at the time of such celebrations. While so, on 09.03.2010, when there had been a special Car festival arranged by Pazhavanur St. Soosaiyappar Church wherein, the petitioner's husband had participated in the procession along with the Chariot. The said Chariot proceeded towards Kattukollai Road, at that time, the electric wire which was hanging, touched the top of the Chariot and on account of the same, three persons walking nearby the Chariot were electrocuted and died on the spot and several persons were injured in the said accident. Petitioner's husband is one amongst the three persons. An FIR had also been registered under Section 174 Cr.P.C., in Crime No.121 of 2010. It is the further case of the petitioner that the respondents herein are jointly and severally responsible for their negligent act and hence, liable to pay the compensation for the death of her husband. It is her further case that her husband is an agricultural coolie and he is the sole bread winner of the family. The petitioner and her husband Mr.Selvaraj were blessed with two daughters and two sons and the entire family were depending on her husband. The petitioner had also sent a legal notice to the respondents herein as well as to the Parish Priest and Senior Sacristan of the Church seeking compensation to the tune of Rs.10 Lakhs. Since no fruitful efforts were forthcoming even thereafter, the petitioner had chosen to file the present writ petition seeking the aforesaid relief.

3. Learned Standing Counsel appearing for the respondents had filed a counter and would submit that the contentions raised in the writ petition is vague and baseless. The officials has verified the L.T. lines in the routes in which usually the Chariot would proceed as per the application made by the Church authorities and permission had also been granted to the procession. It is further averred that sufficient precautionary steps had also been taken on the routes wherever necessary. It is the Palayanur Village people, who, all of a sudden had changed the route from the usual route and taken the Chariot in the unusual route wherein, no prior inspection had been taken place by the departmental authorities. Hence, the negligence is on the part of the Church authorities, who had conducted the festival and thus, department is no way responsible for the accident and not liable to pay any compensation. Therefore, the writ petition is liable to be dismissed.

4. Considering the fact that allegation levelled against the official respondents are disputed in the legal notice issued by the petitioner, the said fact of negligence cannot be decided in the writ petition. Though the petitioner

had chosen to issue legal notice to the Parish Priest and Senior Sacristan (Church authorities) concerned while issuing notice to the official respondents, it had not added the private parties as necessary respondents to the present writ petition. The present writ petition had been filed only as against the Official respondents/TANGADCO authorities. At the time of hearing the writ petition, learned counsel for the official respondents had produced the copy of the proceeding in (Per.) (F.B) TANGADCO No.5, dated 29.04.2013. It would be relevant to extract the proceeding which would read as:

Sl.No.	Mode of Accident	Existing	Enhanced	Competent Authority
1.	For Fatal	Rs.25,000/-	Rs.2,00,000/-	
2.	For Non-Fatal a) Loss of two limbs or two eyes or one limb and one eye b) Loss of one Limb or one eye	Rs.20,000/- Rs.10,000/-	Rs.1,00,000/-	Chief Engineer/ Personnel
3.	Animals (Cow/Buffalow/Bullock)	Rs. 2,000/-	Rs.10,000/-	

2. The above enhanced rates of compensation will take effect from the date of issue of this proceedings and the previous closed files need not be reopened."

सत्यमेव जयते

5. Considering the above facts, the allegations levelled by the petitioner in the legal notice are disputed facts as stated supra, the said fact of negligence can be derived by adding oral and documentary evidence in the suit, this writ petition is liable to be dismissed for non-joinder of necessary parties. However, considering the facts and circumstances of the case and in the light of the aforesaid proceeding of TANGADCO, without prejudice to the rights of the parties, the respondents are directed to pay the compensation of Rs.2,00,000/- to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

6. This writ petition is disposed with above observation, by giving liberty to the petitioner to seek appropriate remedy before the proper forum as prayed in the writ petition. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintending Engineer,
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Tamil Nadu Electricity Board,
Devapandalam,
Sankarapuram Taluk,
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+1cc to M/s.G. Rajan, Advocate, S.R.No.72731

NR(CO)
EU 1.03.17

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