

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

The Hon'ble Mr.Justice N.Kirubakaran

Writ Petition No.7196 of 2016

1. Valliammal
2. Palani
3. Saraswathi

... Petitioners

Vs.

1. The Government of Tamil Nadu,
rep. by its Chief Secretary,
Fort St. George, Chennai.
2. The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Ltd.,
No.144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Tamil Nadu Generation and Distribution,
Corporation Ltd., (Formerly TNEB)
Old Power House Road, Villupuram.

... Respondents

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay a sum of Rs.13,93,600/- by way of compensation to the petitioners for the death of first petitioner's husband Mr.Sakkarapani, on account of electrocution.

For Petitioner : Mr.D.Venkatachalam

for Mr.T.Ananthasekar

For Respondent-1 : Mr.T.M.Pappiah

Special Government Pleader

For Respondents

2 and 3 : Mr.M.Varun Kumar

O R D E R

With the consent of both the parties, the Writ Petition is taken up for final disposal.

2. The prayer in this Writ Petition is for issuance of a writ of mandamus to direct the respondents to pay a sum of Rs.13,93,600/- as compensation to the petitioners for the death of one Mr.Sakkarapani, who is the husband of the first petitioner, and father of petitioners 2 and 3.

3. The first petitioner would submit that her husband, late Sakkarapani, was the only breadwinner of the family, and he was working as an agricultural coolie. On 25.06.2015, at 9.30 a.m., the first petitioner's husband went for the field work, (grazing the cattle). As ill luck would have it, there was a snapped live high tension electric wire, lying on the agricultural field, and when the said Sakkarapani, (who was grazing the cattle in that area) came into contact with the snapped wire, he was electrocuted. In the said tragic incident, a Cow, which was browsing appurtenant to the area also was electrocuted. In this regard, a complaint has been lodged, which was registered as a case in Crime No.417 of 2015, wherein, it has been alleged that the respondent-Electricity Board is not proper in maintaining the electric wires, and it was only due to their negligence and recklessness, the said Sakkarapani died.

4. The learned counsel appearing for the petitioners submitted that, there was sheer negligence on the part of the Respondent-Board in maintaining the electric wire. Had the respondent-Board been proper and regular in maintaining the electric wires (with due care and caution) the electric wire would not have got snapped, nor does the first petitioner would have lost her husband, and petitioners 2 and 3 would have become fatherless children in the society. The learned counsel, therefore, submitted that it was only due to negligence and slackness on the part of the respondent-Board, the tragic incident occurred, for which, they are liable to pay compensation. With regard to the maintainability of the Writ Petition, insofar as it concerns the aspect of negligence on the side of the Government Authorities (respondent-Board), the learned counsel submitted that, this Court, in cases of this nature, has exercised its thinking judicial discretion and awarded compensation together with interest to the claimants. So far as fixation of compensation under the following heads i) Notional Monthly Income, ii) Future Prospectus, and iii) Multiplier to be adopted with regard to the age of the deceased, the learned counsel placed reliance of the reported decisions of the Hon'ble Supreme Court, mentioned infra in support of his contention;-

a) (Syed Sadiq Vs. Divisional Manager, United India Insurance,) (2014) 1 TANMAC 459.

b) (Rajesh and others Vs. Rajbir Singh and others) (2013) 2 TNMAC 55.

c) (Sarala Verma (SMT) and others Vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121).

5. Repelling/refuting the submissions made by the learned counsel for the petitioners, the learned Standing Counsel for the respondent-Board submitted that there was no negligence on the part of the respondent-Board, and in fact, negligence was on the part of the deceased, as he has not taken precautionary steps. That apart, when there are disputed questions of fact, the same cannot be gone into/resolved in a writ petition, and the appropriate and efficacious remedy available to the petitioners is to approach a Civil Court, via., Claim Petition.

6. Heard Mr.D.Venkatachalam, the learned counsel appearing for the petitioners, Mr.T.M.Pappiah, learned Special Government Pleader, for first respondent, and Mr.M.Varun Kumar, learned counsel for second and third respondents, and perused the materials placed on record, including the counter affidavit filed by the respondent-Board.

7. There is no dispute with regard to the death of Sakkarapani, the first petitioner's husband on 25.06.2015, due to electrocution. The Post-mortem certificate issued by the Pondicherry Institute of Medical Sciences, dated 25.06.2015 would reveal that Sakkarapani died out of electric shock. The same is further proved by the First Information Report, dated 25.06.2015.

8. Further, it is not the case of the respondent-Board that it was only due to force majeure conditions, the electric wire got snapped. In the absence of any extra-ordinary circumstances like heavy blow of wind or cyclone, thunderbolt, if the live wire got snapped and fallen on the field, that would per se enough to prove that there was negligence on the part of the respondent/Board in maintaining the electric wire properly. It is the duty of the respondent-Board to maintain electric wires properly, every now and then, especially, when it comes to high voltage. Therefore, there is no necessity for the petitioner to approach the Civil Court to adjudicate the issue. The facts of the case is a res ipso loquitur. To put it in other words, there is no disputed facts so as to drive the petitioner to approach Civil Court. This Court, at the risk of redundancy states that it was only due to negligence on the part of the respondent-Board, the electric wire got snapped and led to death of Sakkarapani and the Cow.

9. Hence, this Court has no hesitation to fix negligence on the part of the respondents. Once, negligence is proved,

necessarily, liability should be fastened on the defaulter, (Electricity Board, in this case).

10. As far as quantum of compensation is concerned, this Court has to follow the formulae as well as the principles contemplated under the Motor Vehicles Act. The age of the deceased was '55', and he was an Agricultural Coolie. Taking into consideration the incident occurred in the year 2015, in the absence of any material evidence with regard to the income of the deceased, following the dictum laid down by the Hon'ble Supreme Court in re (Syed Sadiq Vs. Divisional Manager, United India Insurance,) reported in (2014) 1 TANMAC 459, a sum of Rs.6,500/- is determined as monthly income of the deceased, as in the said judgement, the monthly income of a vegetable vendor, who died in the accident occurred in the year 2008, was fixed at Rs.6,500/-. Since the deceased is aged about 55 years, 15 % is liable to be added towards his future prospectus, as per the principle laid down by the Hon'ble Supreme Court, in the case of (Rajesh and others Vs. Rajbir Singh and others) reported in (2013) 2 TNMAC 55. The size of the family of the deceased is three in numbers. In the light of the judgment of the Hon'ble Supreme Court, in the case of Sarala Verma (cited supra), 1/3rd is liable to be deducted towards his personal and living expenses (i.e., Rs.6,500/- + 15% (Rs.975) x 1/3 = Rs.4,983/-) Thus, the annual income of the deceased is arrived at (Rs.4,983 x 12 = Rs.59,796/-). Following the judgment of the Hon'ble Supreme Court in Sarala Verma's Case, the multiplier to be adopted for the death of 55 years old man is '11'. "Rs.59,796 x 11 = Rs.6,57,756/-"

11. The first petitioner, being a widow, she has to be compensated for the loss of her husband. Following the judgment of the Hon'ble Supreme Court, in Rajesh and others Vs. Rajbir Singh and others (cited supra) a sum of Rs.1,00,000/- is awarded towards consortium. Similarly, the children, (petitioners 2 and 3) have to be compensated towards loss of love and affection, and accordingly, a sum of Rs.25,000/- each is given. Towards transportation, a sum of Rs.5,000/- and for funeral expenses, a sum of Rs.15,000/- is fixed. Totally, a sum of Rs.8,27,756/-. Though the petitioners have not sought for compensation towards the loss of cow, however, this Court, taking into consideration the fact that it also died due to electrocution, as per the respondent-Board Proceedings, fixes the compensation at Rs.20,000/-. The rate of interest applicable is 7.5% from the date of filing of this Writ Petition till the date of the payment. The amount fixed as compensation is liable to be paid by the respondent/Electricity in the following manner:-

First Petitioner/Widow	: Rs.2,00,000/-
Second Petitioner/Son	: Rs.3,47,756/-

Third Petitioner/Daughter : Rs.3,00,000/-

12. The compensation amount, viz., a sum of Rs.8,47,756/- (Rupees Eight Lakhs Forty Seven Thousand Seven Hundred and Fifty Six only). shall be deposited by the respondent-Board in the accounts of the claimants/petitioner by Net Electronic Fund Transfer mode within a period of 12 weeks from the date of receipt of a copy of this order.

13. In the result, the Writ Petition is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary
The Government of Tamil Nadu,
Fort St. George, Chennai.
2. The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Ltd.,
(formerly TNEB)
No.144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Tamil Nadu Generation and Distribution,
Corporation Ltd., (Formerly TNEB)
Old Power House Road, Villupuram.

+1cc to Mr.M. Varunkumar, Advocate, S.R.No.68443
+1cc to Mr.T. Ananthasekar, Advocate, S.R.No.68232

ssi (CO)
md(05/01/2017)

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