



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.761 of 2013 & M.P(MD)No.1 of 2013

1.The Chairman,
The Tamil Nadu Electricity Board,
Anna Salai,
Chennai.

2.The Chief Engineer,
The Tamil Nadu Electricity Board,
Thirunelveli.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Thirunelveli.

4.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Distribution/Town, Thirunelveli.

...Appellants/Respondents 2 to 5

-Vs-.

1.S.Kumari

...1st Respondent/Writ Petitioner

2.The Government of Tamil Nadu,
Represented by its Secretary to
the Government, Electricity Department,
Fort.St.George,
Chennai.

... 2nd Respondent/1st Respondent

Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 14.06.2013 made in W.P(MD)No.10574 of 2012.

Prayer in WP(MD). 10574/ 2012 :

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents herein to pay a compensation of Rs. 75 lakhs to the



For Appellants : Mr.S.M.S.Johnny Basha
For R1 : Mr.T.Selvakumaran for R1
For R2 : Mr.M.Alaguthevan,
Special Government Pleader.

WEB COPY

JUDGMENT

(Judgment of the Court was delivered
by **NOOTY.RAMAMOohana RAO,J**)

This Writ Appeal is preferred by the Tamil Nadu Electricity Board and its Subordinate Officers against the judgment rendered by this Court in W.P(MD)No.10574 of 2012. The first respondent herein instituted the said writ petition, seeking payment of compensation from the appellants herein, on account of electrocution of her husband.

2. The relevant facts are that the writ petitioner was the wife of one Selvaraj, who was employed as Administrative Officer in L.I.C at its Tirunelveli Branch. On 12th February 2012, the husband of the writ petitioner was riding a motorbike with the writ petitioner as his pillion rider. It is the case of the writ petitioner that while the deceased was crossing Sivanthipatti Road at Thiagaraja Nagar, the electric transmission line attached to the electric pole got snapped and fell on him and as a consequence, the husband of the writ petitioner was thrown off the motorbike and sustained injuries. He was admitted to the Tirunelveli Medical College Hospital, where he succumbed to the injuries on 20th February 2012. Hence, the writ petition.

3. The learned Single Judge, who decided the writ petition has awarded a sum of Rs.44,56,000/- (Rupees Forty Four Lakhs Fifty Six Thousand Only) to the writ petitioner, with interest at 9% from 20th February 2012 onwards. The learned Single Judge also directed the Tamil Nadu Electricity Board, to pay a sum of Rs.14,000/- (Rupees Fourteen Thousand only) towards costs.

4. In this appeal, the learned Counsel appearing for the appellants would urge that the deceased has not died of electrocution, for the appellants to pay for the compensation for his death. On the other hand, the deceased died because of the injuries sustained by him. In that view of the matter, evidence ought to have been let in by the writ petitioner to establish the negligence on the part of the appellants and for that purpose, the proceedings under Article 226 of the Constitution of India are not appropriate proceedings and in fact, a civil suit ought to have



5. We have heard the learned Counsel for the writ petitioner also and perused the material on record.

6. The undisputed fact is that the writ petitioner's husband sustained some injuries on 12th February 2012 upon alleging coming in contact with an electric energy transmission wire. Since he died on 20th February 2012, which was more than a week later, we are inclined to accept the contention of the appellants that the deceased may not have died due to electrocution. In case of electrocution, death would be instantaneous. Therefore, there appears to be some force in the submission of the learned Counsel for the appellants that the deceased died of the injuries sustained by him, but not, entirely because of electrocution. To establish, in such circumstances, the negligence on the part of the appellants, evidence is required to be collected from both sides. Normally, exercising the jurisdiction under Article 226 of the Constitution of India, the Courts are reluctant to gather evidence, particularly, the oral evidence. It is only appropriate that the civil Court must be approached, so that both sides can have a fair opportunity to let in evidence, which was considered appropriate by them. But, however, we have gathered that the appellant Corporation itself has announced its policy decision through the Proceedings No.5 dated 29.04.2013, that it would be paying a sum of Rs.2,00,000/- for all fatal accidents. Though the Proceedings No.5 was issued on 29th April 2013, the date is subsequent to death of the writ petitioner, but, nonetheless, at our suggestion, the learned Counsel for the appellants reiterated that the appellants are willing immediately to pay a sum of Rs.2,00,000/- to the writ petitioner.

7. In view of the above facts and circumstances, we consider that the ends of justice would be served better by granting the writ petitioner liberty to approach the civil Court and sue for damages, but, however, without prejudice to her right to recover the damages from the appellants from the civil Court, we consider it appropriate to direct the appellants to pay the writ petitioner immediately a sum of Rs.2,00,000/- as per the policy decision contained the Proceedings No.5, dated 29.04.2013 of the Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO) and also pay a sum of Rs.14,000/- as costs, ordered by the learned Single Judge. This payment shall be made by way of crossed Demand Draft in the name of the writ petitioner drawn on any one of the Nationalized Banks at Tirunelveli, and the same shall be sent to her address by Registered Post with Acknowledgement Due. The payment made by the appellants will not affect the right of the writ petitioner to sue and recover further additional amount towards damages. It is needless to say that the pleas urged by the respective parties are kept open. With this, the order passed by the learned Single Judge is modified.



8. Accordingly, this writ appeal is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

TO

1 The Secretary to the Government,
Government of Tamil Nadu, Electricity Department,
Fort.St.George,
Chennai.

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The Tamil Nadu Electricity Board,
Anna Salai,
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3.The Chief Engineer,
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Distribution/Town, Thirunelveli.

+1cc to M/s.S.M.S.Johnny Basha, Advocate SR.No.33824/16

+1cc to M/s.T.Selvakumaran, Advocate Sr.No.34156/16

+1cc to special Government Pleader SR.No.33917/16

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