



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

W.P. (MD) No.7836 of 2011

WEB COPY

C.Nagendran

: Petitioner

Vs.

1.The Secretary,
Home Department,
Fort St. George,
Chennai-9.

2.The Chairman,
Tamil Nadu Electricity Board,
Chennai.

3.The District Collector,
Collectorate Complex,
Theni, Theni District.

4.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Theni.

5.Junior Engineer,
Operation and Maintenance,
Kadamalaikundu Division,
Kadamalaikundu,
Theni District.

: Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents 2, 4 and 5 to forthwith pay adequate compensation to the petitioners family for the death of petitioner's son.

For Petitioner : Mr.V.Sankaranarayanan

For Respondents 1 & 3: Mr.M.Murugan
Government Advocate

For Respondents 2,4,5: Mrs.S.Srimathy

ORDER

The petitioner has come up with this Writ Petition claiming compensation from the Tamil Nadu Electricity Board on account of the electrocution of his son.

**BRIEF FACTS:**

2. The petitioner is the father of Thiru.Kumar, who was an agricultural coolie. He was the only son to the petitioner and the sole bread-winner of the family. The son of the petitioner went to the Farm owned by one Velliyathevar on 09 November, 2010 to do agricultural work. The electric wire snapped and fell on him. The son of the petitioner was electrocuted. The police registered a case in Crime No.286 of 2010 on the file of Kandamanoor Police Station. The post-mortem was conducted by the Doctors of Government Hospital, Theni.

3. According to the petitioner, the accident was solely on account of the negligence of the officials of the electricity board as they failed to maintain the electric line. The petitioner therefore filed this Writ Petition claiming compensation.

4. The fifth respondent has filed a counter affidavit practically admitting the incident. According to the fifth respondent, it is an unfortunate case of force majeure event beyond the control of the Board and as such, there is no liability to pay compensation.

5. I have heard the learned Counsel for the petitioner, learned Government Advocate appearing on behalf of the respondents 1 and 3 and learned Standing Counsel appearing for the respondents 2, 4 and 5.

DISCUSSION:

6. The unfortunate incident of electrocution is not in dispute. While the son of the petitioner was proceeding to a farm, a live wire snapped and it fell on him, and he was electrocuted.

7. The Electricity Board is expected to maintain the electric lines to avoid electrocution. The Indian Electricity Act and Rules provides for maintaining overhead lines and providing safety and protective devices.

8. Rule 91 of the Indian Electricity Rules, 1956 also provides for safety and protective devices. The said provision reads thus:

"91.Safety and protective devices.- (1) Every overhead line; (not being suspended from a dead bearer wire and not being covered with insulating material and not being a trolley-wire) erected over any part of street or other public place or in any factory or mine or on any consumers'



premises shall be protected with a device approved by the Inspector for rendering the line electrically harmless in case it breaks.

(2) An Inspector may by notice in writing require the owner of any such overhead line wherever it may be erected to protect it in the manner specified in sub-rule (1)."

9. The Electricity Board, being the supplier of electricity, is expected to maintain the supply system in a sound condition. Great care and attention are expected from the Electricity Board in maintaining live wire and other electrical system used in the transmission of electricity. In case of an accident involving electricity line, inference can surely be drawn that there has been an element of carelessness on the part of the officials of the Electricity Board in maintaining the supply line. The burden of proof in such cases is clearly on the Board. They should demonstrate that they have taken all reasonable care in maintaining the transmission lines. Common man has no control over the electrical system and the transmission line and as such, in the event of any untoward incident involving the transmission cable, onus is heavy on the Electricity Department to absolve them from the charge of negligence.

10. The materials available on record gives a clear indication that the incident was purely on account of the negligence of the officials of the Electricity Board. Therefore, the petitioner has made out a case for award of compensation.

11. The next issue pertains to the assessment of compensation.

12. There are no fixed guidelines to assess the compensation in a case of this nature. The Court has to adopt a reasonable procedure to assess the compensation.

13. The Motor Vehicles Act, 1988 contains detailed provisions regarding assessment of compensation. Section 163-A of the Motor Vehicles Act contain a structured formula for arriving at the compensation involving motor vehicles.

14. The multiplier method is the best available method in a case of this nature to assess the compensation.

15. The deceased was aged 22 years as on the date of his electrocution. The proper multiplier is therefore 17. The deceased was employed as a coolie.



that even a vegetable vendor is capable of earning a sum of Rs.6,500/- per month.

17. The Supreme Court in **Santosh Devi Vs National Insurance Company Limited, [(2012) 6 SCC 421]** observed that there has been incremental enhancement in the income of those who are self-employed and even those who are engaged on daily basis, monthly basis or even seasonal basis. The Supreme Court further observed that the Court can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. The Supreme Court has given the example of a tailor, who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for the tailor to increase the cost of his labour, so will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. The petitioner contended that the deceased was hale and healthy and he was earning substantial amount by working as a coolie. He was looking after the family. He was a bachelor. There is no denial of the statement relating to the health condition of the deceased and his employment as a coolie.

19. The deceased was the only son of the petitioner. The petitioner lost the company of his son on account of electrocution. The loss sustained by the petitioner and his family cannot strictly be compensated in terms of money.

20. In view of the present state of Indian economy and rise in prices of essential items and the prevailing wages, it can safely be concluded that even a coolie would receive a minimum sum of Rs.6,000/- per month, even in the year 2010. I am therefore of the view that the monthly income of the deceased can be taken as Rs.6,000/- per month.

21. The deceased would have spent one third of his income for his personal needs. In case, one third is deducted, the available monthly income of the deceased would be a sum of Rs.4,000/-. The annual income would come to Rs.48,000/-. If multiplier 17 is adopted, the total loss of income would be a sum of Rs.8,16,000/-.

22. The petitioner is entitled to a reasonable compensation under the Head, non-pecuniary damages, which I fix at Rs.1,00,000/-. (Rupees One Lakh Only). He is also entitled to a sum of Rs.3,000/- by way of funeral charges. The petitioner is, therefore, entitled to a total compensation of Rs.9,19,000/-. (Nine Lakhs Nineteen Thousand only).



23. The respondents 2,4 and 5 are directed to pay a sum of Rs.9,19,000/- as compensation to the petitioner along with interest calculated at the rate of 9% from 13.07.2011 and cost. The amount shall be paid, within a period of eight weeks from the date of receipt of a copy of this order.

24. The Writ Petition is allowed with cost quantified at Rs.31,000/- (Rupees Thirty One Thousand only).

Sd/

Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary,
Home Department,
Fort St. George,
Chennai-9.
- 2.The Chairman,
Tamil Nadu Electricity Board,
Chennai.
- 3.The District Collector,
Collectorate Complex,
Theni, Theni District.
- 4.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Theni.
- 5.Junior Engineer,
Operation and Maintenance,
Kadamalaikundu Division,
Kadamalaikundu,
Theni District.

+1cc to Special Government Pleader in SR.No.50172

+1cc to M/s.S.M.S.Johnny Basha, Advocate in SR.No.50090

+1cc to M/S.V.Sankara Narayanan, Advocate in SR.No.49865

Order made in
W.P. (MD) No.7836 of 2011
Dated: 02.09.2016

ssm/SML

PA/SK-SKN/SAR I/06.09.2016/5P/9C