

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.5170 of 2012

Mahaveer Chand Bohra Jain

... Petitioner

Vs

1. The Chairman,  
Tamil Nadu Electricity Board,  
No.144, Mount Road,  
Chennai-600 002.
2. The Assistant Executive Engineer,  
Tamil Nadu Electricity Board,  
A subsidry of Tamil Nadu Generation  
and Distribution Corporation limited,  
Lines-Korattur,  
230 KV Sub-Station,  
Korattur,  
Chennai-600 080.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the respondents the reference letter No.Lr.No.SE/O-I/CNI/EA/AET/F-Accident/D.2512/10,dated 29.11.2010 and direct the respondents to pay a sum of Rs.30 lakhs as compensation to the petitioner for the loss of his son Lalith Kumar aged 16 years in electrocution on 01.04.2010 within the jurisdiction of the 2<sup>nd</sup> respondent.

For Petitioner : Mr.S.Sundar

For Respondents : Mr.P.R.Dilip Kumar

ORDER

Heard Mr.S.Sundar, learned counsel for the petitioner and Mr.P.R.Dilip Kumar, learned counsel appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records of the respondents the reference

letter No.Lr.No.SE/O-I/CNI/EA/AET/F-Accident/D.2512/10, dated 29.11.2010 and direct the respondents to pay a sum of Rs.30 lakhs as compensation to the petitioner for the loss of his son Lalith Kumar aged 16 years in electrocution on 01.04.2010 within the jurisdiction of the 2<sup>nd</sup> respondent."

3. The case of the petitioner is as follows:-

According to the petitioner, he is a business man by profession and making his earning from the petty shop. On 01.04.2010, at about 6.30 am, his son Lalith Kumar, aged about 16 years was playing within the compound of the house in the vacant space of his block. While playing, he came into contact with the high tension live wire which was passing through the area and in view of the impact, he suffered severe electric shock. In view of the shock, he suffered severe burn injuries and admitted in the Hospital. However, without responding to the treatment, the petitioner's son succumbed to injury and passed away on 03.04.2010 at Kilpauk Medical College Hospital, Chennai.

4. According to the petitioner, due to negligence of the respondent Electricity Board, an unfortunate incident had happened, in which the petitioner lost his dear son, he was only 16 years at that time. According to the petitioner, apart from his education, his son was also helping him in running the shop. Therefore, he was also contributing to the income of the family. Since the death was due to the negligence of the respondent Board, the petitioner has approached this Court, seeking compensation of Rs.30,00,000/-

5. In response to the demand of the petitioner, an order was passed by the respondent Board on 29.11.2010, rejecting the demand on the ground that there was no negligence on the part of the respondent Board, it was entirely the fault of the petitioner's son who had contact with the high tension live wire.

6. The counter affidavit has been filed, in which, it is stated that the petitioner while removing the saree of his mother in the terrace and the wet saree had come into contact with the live wire and due to contact of electricity, the petitioner had severe shock and died subsequently.

7. According to the respondent Board, it was entirely the fault of the petitioner's son for having come into contact with the live wire while removing the saree of his mother which was put up in the terrace for drying.

8. When the matter was taken up for hearing, though the averment of the petitioner had been disputed, but, it must be seen that there is some kind of contributory negligence on the

part of the respondent Board in having loose high tension wire above the house of the petitioner. On an enquiry, the learned counsel appearing for the respondent Board had produced the proceedings No.5 dated 29.04.2013, in and by which, the Board provided for exgratia payment payable on compassionate ground in respect of fatal/non-fatal, electrical/mechanical accidents to non-departmental persons.

9. In the said proceedings, compensation payable for fatal accident was enhanced from Rs.25,000/- to Rs.2,00,000/-. This Court is of the view that although the claim of the petitioner is Rs.30,00,000/-, however without going into the merits of the claim, a payment of Rs.2,00,000/- has been provided for proceedings No.5, dated 29.04.2013, has to be made available to the petitioner forthwith, without prejudice to the rights of the petitioner in taking higher amount towards his compensation.

10. In the above circumstances, there shall be a direction to the respondent Board to forthwith make payment of Rs.2,00,000/- to the petitioner in terms of the Proceedings No.5 dated 29.04.2013, within a period of two weeks from the date of receipt of a copy of this order.

11. In view of the disputed questions of fact, the original claim amount as claimed in the writ petition cannot be entertained, as this Court while exercising the jurisdiction under Article 226 of the Constitution of India, cannot resolve the disputed questions of fact. However, it is open to the petitioner to approach the appropriate forum for claiming higher damages/compensation for the death of the petitioner's son, if so advised.

12. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

gsk

To

1. The Chairman,  
Tamil Nadu Electricity Board,  
No.144, Mount Road,  
Chennai-600 002.

2. The Assistant Executive Engineer,  
Tamil Nadu Electricity Board,  
A subsidry of Tamil Nadu Generation  
and Distribution Corporation limited,  
Lines-Korattur,  
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Chennai-600 080.

+1cc to Mr.P.R.Dilip Kumar, Advocate in sr.no.81497

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NR 22/12/2017



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