

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.6.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.462 of 2013

- 1 THE SUPERINTENDENT ENGINEER-I  
PUDUCHERRY ELECTRICITY BOARD UPPALAM  
PUDUCHERRY.
  - 2 THE JUNIOR ENGINEER  
ELECTRICITY BOARD VADHANOR PUDUCHERRY.
  - 3 THE SECRETARY TO GOVERNMENT  
SECRETARIAT PUDUCHERRY. ..Appellants/Respondents
- Vs
- K.SAMBATH @ CHIDAMBARANATHAN ..Respondent/Petitioner

Appeal filed against the order passed by this Court dated 2.1.2013 passed in W.P.No.17691 of 2009. Writ petition is filed under Article 226 of the constitution of India with a prayer to issue a writ of Mandamus directing the Respondents to pay the Petitioner a sum of Rs.5,00,000/- towards compensation for the death of his wife which was caused by Electrocution due to negligence of the Respondents.

For appellants : Ms.V.Usha,  
Additional Government Pleader (Puducherry)

For Respondents : Ms.S.Rajeni Ramadass

J U D G M E N T  
(made by K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated 2 January 2013 in W.P.No.17691 of 2009, directing the appellants to pay a sum of Rs.4,00,000/- to the respondent, as compensation on account of the electrocution of his wife, due to the negligence of the officials of the Puducherry Electricity Department in maintaining the service line in safe and good working condition.

**Brief facts:-**

2. The respondent filed a Writ Petition in W.P.No.17691 of 2009 against the appellants claiming compensation. According to the respondent, on 17 May 2009 at about 5 p.m., his wife proceeded to the farm land for plucking grass to feed the cow. Since she failed to return till 6 p.m., the respondent and neighbours went in search of her. The respondent found his wife lying, holding the disconnected electric wire. The respondent approached the second appellant immediately and thereafter, the electric line was switched off. The respondent's wife was brought dead at the local hospital. The police registered a case in Cr.NO.104 of 2009 on the file of Thirukannur Police Station. The postmortem conducted on the body of the deceased proved that the death was due to electrocution. Since the incident was on account of the negligence of the officials of the Electricity Department in maintaining the service line, the respondent filed a Writ Petition in W.P.No.17691 of 2009, claiming a sum of Rs.5,00,000/- as compensation.

3. The first appellant filed a counter affidavit in W.P.No.17691 of 2009, admitting that factual position that the deceased came into contact with the snapped electric line and she died on the spot.

4. The learned single Judge considered the question of negligence and arrived at a finding that the Electricity Department was at fault as they have not taken reasonable care in maintaining the transmission line. The learned single Judge thereafter considered the question of quantum and taking into account the principles evolved by the Courts for determining the compensation, took the income of the deceased at Rs.3000/- and after giving necessary deduction, awarded a sum of Rs.4,00,000/-. Feeling aggrieved by the order in W.P.No.17691 of 2009, the appellants have filed this intra Court appeal.

5. This Court while admitting the appeal, directed the appellants to deposit 50% of the compensation amount awarded, and granted liberty to the respondent to withdraw the said amount without furnishing security.

**Summary of submissions:-**

6. The learned Additional Government Pleader (Puducherry), vehemently contended that there was no negligence on the part of the officials of the Electricity Department in maintaining the service line. According to the learned Government Pleader, admission of electrocution would not amount to admission of negligence and therefore, the learned single Judge was not correct in observing that the officials were negligent. The learned Additional Government Pleader submitted that the learned Judge erred in fixing the compensation at Rs.4,00,000/-. It was her contention that there was no evidence to show that the

deceased was earning a sum of Rs.3,000/- p.m. Therefore, there was no basis to take the multiplier method. The learned Additional Government Pleader further contended that the appellants have taken reasonable care in maintaining the line and as such, liability cannot be fastened on them on account of the unfortunate incident involving the wife of the respondent.

7. The learned counsel for the respondent while justifying the order passed by the learned Single Judge, contended that the appellants have very clearly admitted the negligence and as such, the only question before the writ court was as to whether the claim was exorbitant. According to the learned counsel, the Writ Court adopted the well recognized multiplier method and correctly decided the compensation.  
Discussion:-

8. The wife of the respondent by name Mrs.Malathi, was electrocuted on 17 May 2009. She was found dead by the respondent and others. It was only pursuant to the request made by the respondent, the Electricity Department switched off the power supply. The police registered a case in Cr.No.104 of 2009 before the Thirukannur Police Station. The postmortem revealed that Mrs.Malathi died on account of electrocution.

9. The respondent in the affidavit filed in support of the Writ Petition contended that the appellants alone were responsible for the incident. According to the respondent, the appellants failed to keep the electric line in a sound condition and their negligence was the root cause for snapping the electric wire.

10. The first appellant in the counter affidavit filed before the writ court, admitted very clearly the factual position that Malathi has come into contact with a snapped live wire and she died on the spot. According to the first appellant, casuarina tree cultivated in the land belonging to Thiru.Pichaikaran fell on the electric line and the line snapped due to the impact. Electrocution is therefore not in dispute.

11. The core question is as to whether the appellants were responsible for snapping the electric line and consequent electrocution of the wife of the respondent.

12. The Electricity Act and the rules and regulations made thereunder contain string of provisions with regard to erection of structures and removal of trees standing near the electricity line. The Electricity Department has got Field officers responsible for the day-to-day maintenance of the electric line. The Department has employed Supervisors and Line Helpers to see that the electric lines are kept in proper condition.

13. Sub section (5) of Section 68 of Electricity Act, 2003, empowers the Electricity Department to approach the Executive Magistrate for removal of objects that has been placed or has fallen near the line. The provision reads thus:-

"(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit."

14. 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)."

15. The Electricity Board being the suppliers of electricity and its workers, employed to carry out the purpose of transmission, are 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 engaged in the transmission of electricity. In case of an incident involving electricity line, inference can surely be drawn that there has been an element of carelessness on the part of the Electricity Board and its officials in maintaining the supply line. The burden of proof in such cases is clearly on the Board that they have taken all reasonable care in maintaining

the transmission lines. There is no doubt that the 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 themselves from the charge of negligence.

16. The counter affidavit filed by the first appellant clearly shows that there was no device approved by the Inspector for rendering the line electrically harmless in case it breaks. The learned Single Judge was therefore justified in the observation that it was only on account of the negligence of the appellants, the unfortunate incident took place, taking away the life of the deceased.

17. The next question relates to the quantum fixed by the learned Single Judge.

18. The learned Single Judge adopted the multiplier method and estimated the monthly income of the deceased at Rs.3,000/-. Since the deceased was doing coolie work, the learned Judge was correct in taking monthly income at Rs.3,000/-. The learned Single Judge deducted  $\frac{1}{4}$ <sup>th</sup> of the income towards her personal expenses and thereafter, calculated the total compensation. Even though a sum of Rs.5,00,000/- was claimed by the respondent, only a sum of Rs.4,00,000/- was awarded by the learned Single Judge.

19. The deceased was the breadwinner of the family. She was functioning in different capacities. She was a dutiful wife and an affectionate mother of her two children. She was the Finance Minister of the family. She was the chef. She was the chartered accountant of the family, maintaining the income and expenses. The respondent lost the company of his wife. The children lost their mother and her love and affection.

Wife-homemaker:-

20. While estimating the actual loss on account of the loss of services to the family of a woman, Courts have taken a view that such services should be construed broadly, taking into account the features of the life of a woman beyond her ordinary services, like house keeping, cooking, purchasing clothes to the family, washing, cleaning etc. The husband would be denied of his wife's care, attention and companionship. In short, the loss of personal care and individual attention by the deceased to her siblings, as a mother, and as a wife to her husband, are all relevant materials to assess the loss of services consequent to the death of housewife.

21. In Arun Kumar Agrawal v. National Insurance Co. Ltd. [2010(9) SCC 218], the Supreme Court indicated the heads under which the husband can claim compensation on the death of his wife. The Supreme Court observed:

"26. In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.

27. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependants, some pecuniary estimate has to be made of the services of the housewife/mother. In that context, the term 'services' is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of

the services to the family which the deceased was giving earlier."

22. The learned Single Judge has given cogent reasons in support of his finding that the appellants were negligent and that the family deserves reasonable compensation. We do not find any error or illegality in the said order, warranting our interference by entertaining this intra court appeal. The intra court appeal is therefore liable to be dismissed.

23. We direct the appellants to pay the entire amount of compensation viz., Rs.4,00,000/- (Rupees Four Lakhs only), less the amount already deposited, along with interest @ 9% to the respondent, within a period of four weeks from the date of receipt or production of a copy of this judgment.

24. In the upshot, we dismiss the intra court appeal. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-  
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1 THE SUPERINTENDENT ENGINEER-I  
PUDUCHERRY ELECTRICITY BOARD UPPALAM  
PUDUCHERRY.

2 THE JUNIOR ENGINEER  
ELECTRICITY BOARD VADHANOOR PUDUCHERRY.

3 THE SECRETARY TO GOVERNMENT  
SECRETARIAT PUDUCHERRY.

+ 1 cc to Mr.S. Rajini Ramadas, Advocate Sr.43756

W.A.No.462 of 2013

VGII(CO)  
EU 26.7.17