IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6270 of 2015

Sarasu .. Petitioner

Vs.

1) The Chief Secretary to the Government
Of Tamil Nadu, Secretariat,
St.George Fort,
Chennai 600 009

2) The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai,
Chennai 600 002

3) The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Paramathi road,
Namakkal 637 001

4) The Executive Officer,
Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Mohanur Road, Namakkal 637 001

5) The District Collector,
Namakkal District, Namakkal.

6) The Commissioner,
Vennanthur Municipality,
Namakkal District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) by way of compensation and consequentially direct the first respondent to provide a government job for the permanent disability due to the electrocution within a stipulated time.

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For Petitioner : Mr.A.K.Gopalan
For Respondents 1 & 5 : Mr.Akhil Akbar Ali,
Government Advocate

For Respondents 2 to 4 : Mr.S.K.Raameshuwar

For 6th Respondent : Mr.R.Ravichandran

ORDER

The petitioner has come up with this Writ Petition seeking a direction to the respondents to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation and for a consequential direction to the first respondent to provide a Government job to her son for the permanent disability sustained by him due to the electrocution.

2. The petitioner herein is the mother of the victim. According to the petitioner, her son Nantha Kumar, aged about 19 years, studying second year Polytechnic course in Mechanical Engineering at SRG Polytechnic College, Namakkal, was electrocuted and sustained 40% disability in an accident which occurred on 15.11.2014 around 07.45 a.m. She further stated that on 15.11.2014, her son visited his friend's house for getting books required for the preparation of TNPSC-Group IV exams. When the petitioner's son was walking near the bunds of Vennanthur lake area, he got electrocuted due to a high tension electricity wire passing at a very low height near the said area and he was thrown apart. His entire head burned and several parts of his body including hand, leg, fingers, feet and chest were also burnt. The victim's hairs were found hanging on the electric line and he was bleeding profusely. The villagers in the locality took the petitioner's son to the Government hospital, Vennanthur, where he was given first aid and later the victim was admitted in the Emergency ward at Government Mohan Kumaramangalam Hospital, Salem.

3. The plastic surgeon of Government Mohan Kumaramangalam Medical College Hospital gave a clinical finding that the burns involved in the injury were over 40% of the total body surface area, in a raw state over the face, neck, chest wall, neck, right thigh, knee, leg, ankle and foot; burns were of variable depth of 2 and 3 feet mixed burns. This resulted in complete disfigurement and the victim lost his entire life in the society to live as a normal human being. The senior Surgeon further stated that the post electric burns were up to 45% of mixed burns present all over the body surface with gangrene condition in the 3rd toe of the left foot and 4th toe in the right foot with bone exposing the raw area over frontal, parietal and part of

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temporal scalp.

4. An F.I.R. was registered in Vennanthur Police Station in Crime No.3 of 2015 as Electric Accidental case. The victim was admitted as inpatient on 15.11.2014 and was later discharged only on 08.01.2015, thereby he underwent treatment in the Hospital for nearly two months and could not attend College. Also, the victim is suffering from an eye vision problem due to the injury. According to the petitioner, she and her husband are daily wage coolie workers and they took turns to look after their son without going to work, which resulted in severe financial crisis, affecting their entire family.

5. Learned counsel for the petitioner contended that respondents 1 to 6 should have undertook preventive maintenance in the high tension electricity line and the respondents 1 to 4/Electricity Board did not strengthen the high tension wire line with necessary heights and the accident had taken place only due to the gross negligence of the respondents/Electricity Board and as a result, the high tension electric wire had attracted the victim. It is his further contention that only after this incident, respondents 3 and 4 have put a caution board in the place of accident, where it has been written as 'no one shall walk near the bunds of lake'.

6. According to the learned counsel for the petitioner, the respondent Electricity Board is supposed to maintain high tension wire at a prescribed height from the ground level. But due to gross negligence, the accident had occurred and the respondent Electricity Board cannot escape from the liability. It is his further submission that the petitioner sent a representation to the respondents herein on 19.01.2015 requesting them to pay just and fair compensation and to provide a Government job to her son, but the same was not considered. It is his stand that had the petitioner's son completed Polytechnic course, he would have got a decent job and would have atleast earned Rs.10,000/- per month with career prospects. But, the victim's entire career has become a tragedy now and the respondents are responsible for the pain and suffering of the victim and that they have to compensate for the same.

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7. Learned counsel for the petitioner also added that the concept of strict liability in the context of snap electrocution came up for consideration before the Hon'ble Supreme Court in the case of Madhya Pradhesh Electricity Board vs. Shail Kumari [2002 (2) SCC 162], wherein, the Court has granted compensation arriving at a finding that the live wire got snapped and fell on the public road which was partially inundated and the deceased rode over the wire, which twitched and snatched him resulting in his instantaneous electrocution. The Supreme Court in the said

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case, indicated the theory of foreseeable risk in the following paragraphs:

> "7: It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted caused injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road, the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.
>
> 8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability case on such person is known, in law, as "strict liability". It differs from the liability which arises on account of the negligence or fault in this way i.e., the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases is strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm

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by taking precautions".

8. Learned counsel for the petitioner has further referred to the case in Alamelu - vs- State of Tamil Nadu [2012 (114) A.I.C. Page 707], wherein, this Court directed the respondents therein to pay a sum of Rs.7,27,000/-(Rupees Seven Lakhs and Twenty Seven Thousand only) to the petitioner concerned in that case and directed to pay an interest at 6% from the date of the petition within a period of eight weeks. He also referred to the case in Rabindra Nath Ghosal vs. University of Calcutta [2002 (7) SCC 478], wherein, the Supreme Court again reiterated that the Courts have the obligation to satisfy the social aspirations of citizens and to apply the tool and grant compensation as damages in public law proceedings. Apart from the above cited judgments, learned counsel for the petitioner also relied on another judgment in R.Pareetha Beevi & Others vs. The Chairman, Tamil Nadu Electricity Board (TNEB)(2014 Writ L.R. 739), wherein, in a similar circumstance, this Court had granted compensation of a sum of Rs.5,00,000/- to the petitioners therein for the loss of their family member.

9. Learned counsel for the respondents has filed a counter affidavit contending that the accident had occurred on account of negligence of the petitioner and blaming TANGEDCO may not be correct. Further, the counsel for the respondents contended that the Writ Petition itself is not maintainable. He further submitted that the compensation demanded by the petitioner is exorbitant for the injuries sustained by her son and she cannot unjustly enrich herself, assuming that the fault is on the part of the Electricity Board and there is no evidence produced by the petitioner or his son for the request given in the affidavit for claiming compensation. Therefore, it is further submitted that without assuming the reasons for the occurrence of the accident, the Electricity Board cannot be faulted with.

10. In the counter affidavit filed by the respondents, it is stated that the 22 KV Mallur - Alavaipatty feeder line is passing through the Vennandur lake and that the adequate clearance from the ground level had to be 22 feet, but it has been reduced to 8 feet as the Executive Officer, Town Panchayat, Vennandur had deepened the lake due to which soil has been removed and stored as mound over the boundary of the lake. According to the respondents, the petitioner's demand for compensation is on the higher side from the Electricity Board and it need not be granted, as there is no fault on their part.

11. It is seen that no counter has been filed by the 6th respondent. From the photographs produced by the Electricity Board, it is very clear that there is no clearance of 22 feet from the ground level, which is the result of heaps/mounds on

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account of the work done by Vennandur, Town Panchayat while deepening the lake and not leveling the same, due to which the accident in question occurred.

12. Taking into consideration the burn injuries sustained by the petitioner's son and in view of the judgment rendered by this Court in the case of R.Pareetha Beevi and others vs. The Chairman, TNEB & others, 2014 Writ L.R. 739, wherein this Court has awarded compensation to the victim's legal representatives on account of loss of life due to electrocution, this Court directs the 1st respondent to consider the case of the petitioner in providing suitable employment to the petitioner's son and see to it that he is not exposed to excess sun light and unsuited working environment.

13. There is no codified law for arriving at quantum of compensation in cases of this type. The enactments like Motor Vehicles Act, 1988; Workmen Compensation Act, 1948 and Fatal Accidents Act, 1855 may be applied for arriving at a just compensation. In the case on hand, the petitioner's son is a college student. Though the Doctor has assessed his permanent disability at 40%, since the victim has suffered disfigurement of his face, neck and other parts of the body due to electrocution, this Court feels it appropriate to fix the minimum monthly income of the victim as Rs.3,000/- and following the ratio laid down by the Apex Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another, reported in (2009) 6 SCC 121, this Court has arrived at a just compensation under the following heads, viz.

Loss of earning capacity (Rs.3000/- x 2/3 x 12 x 15)	Rs.3,60,000.00
Medical expenses	Rs.1,00,000.00
Transportation to Hospital	Rs. 20,000.00
Attendant Charges	Rs. 20,000.00
Pain and Suffering	Rs.1,00,000.00
Total	Rs.6,00,000.00

14. Therefore, having regard to the above, this Court is of the view that the petitioner's son is entitled to a sum of Rs.6,00,000/- (Rupees Six Lakhs only) as compensation for the burn injuries suffered by him. The respondents/Electricity Board is directed to pay the said amount as compensation to the petitioner with interest at 6% per annum, within a period of three months from the date of receipt of a copy of this order and the same could be reimbursed from the 6th respondent, as the Electricity Board has written a letter to the 6th respondent on

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11.12.2013, stating that the 6th respondent is liable to pay compensation and raising of ground level under HT line across dangerous places like lakes is punishable and considered a crime as per Sections 82 (1) (3), 79 , 80 & 40 of the Indian Electricity Act of 1956 and the same cannot be violated. The amount paid by the respondent Electricity Board shall be reimbursed from the 6th respondent within one month of paying the compensation amount, failing which the entire amount will fetch interest @ 12% per annum payable to the Electricity Board and for non-payment of amount within the stipulated time, the amount can be recovered from the officials concerned.

This Writ Petition is disposed of with the above direction and observations. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sts/aeb
To:

1) The Chief Secretary to the Government
Of Tamil Nadu, Secretariat,
St.George Fort,
Chennai 600 009

2) The Chairman cum managing Director,
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3) The Superintending Engineer,
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4) The Executive Officer,
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Tamil nadu Generation and Distribution
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5) The District Collector,
Namakkal District,
Namakkal.

6) The Commissioner,
Vennanthur Municipality,
Namakkal District.

+4 ccs to Mr.A.K.Gopalan Advocate sr 54947
+1 cc to Mr.R.Ravichandran Advocate sr 55534
+1 cc to the Government Pleader sr 55694

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