

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.28221 of 2016

1.R.Vijayakumar

2.Minor. Mugunthan

Rep. By his father / first petitioner

.. Petitioners

Vs

1.The Superintending Engineer,
Nilgiris Electricity Distribution Circle,
Ooty, Nilgiris - 643 001.

2.The Chairman,
Tamil Nadu Generation of Energy and
Distribution Corporation (TANGEDCO),
Anna Salai, Chennai - 2.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to pay the just compensation not less than Rs.10,00,000/- for the demise of Mrs.Vasuki @ Amudhalakshmi, wife and mother of petitioners respectively, by electrocution on 10.07.2014 at Basuvaiah Nagar, Pudhumund Village or the amount to be fixed by this Court to the petitioners.

For petitioners : Mr.R.Kannan

For Respondents : Mr.S.K.Raameshuwar

O R D E R

By way of filing this writ petition, the petitioners, who are husband and minor son of the deceased Mrs.Vasuki @ Amudhalakshmi, seek a direction to the respondents to pay the just compensation not less than Rs.10,00,000/- for the demise of their wife/mother due to electrocution on 10.07.2014 at Basuvaiah Nagar, Pudhumund Village or the compensation to be fixed by this Court.

2. It is the case of the first petitioner that his wife was working as a plantation worker and earning a sum of Rs.200/- per day. According to him, his wife went to her parents' house for post-delivery care. Whiles, on 10.07.2014 at about 7 a.m., when his wife went to the backyard of the house, she came to contact with the metal wire fence and thereby suffered heavy electric shock and died due to electrocution on the spot.

3. It is the contention of the learned counsel for the petitioners that due to poor maintenance and negligence on the part of the respondents to keep the electric line in proper condition, the death had occurred on the fateful day and therefore, due to such unfortunate incident, the first petitioner is suffering to take care of his minor son / second petitioner, who has lost the love and affection of his mother at his tender age. It is also further submitted that immediately after the electrocution, a case was also registered against the first respondent in Cr.No.111/2014 on the file of the Pudhumund Police Station and thereafter, on investigation, the Inspector of Police, Pudumund Police Station, gave a report stating that the death of Vasuki / wife of first petitioner had occurred only due to electrocution, when she came to contact with the live electrical wire snapped from the pole and it is further stated in the report that such an incident occurred only due to improper maintenance of the respondents. Thereafter, the first petitioner sent a legal notice dated 27.05.2016 to the respondents seeking to pay the just compensation, not less than Rs.10,00,000/-. On receipt of such legal notice, the respondents sent their reply dated 16.06.2016 stating they are not negligible for said incident and the remedy for the petitioners to seek compensation, if any, is only from the owner of the potato field, not the respondents. Thus, the present writ petition with a prayer cited supra.

4. It is submitted by the learned standing counsel for the respondents, by filing a detailed counter affidavit, that there is absolutely no carelessness or negligence on the part of the staffs and officials of the respondent department in maintaining the electric cables and poles adjacent to the place where the deceased died. It is further submitted that after the fateful incident, a case was also registered in Cr.No.111/2014 on the file of the Pudumund Police Station and on investigation, the Investigation Officer has rendered a categorical finding stating that the death of Vasuki is only due to her carelessness and negligence. Therefore, he contended that the prayer for seeking compensation is not maintainable, as they have already received a sum of Rs.2,50,000/- from the Government of Tamil Nadu's relief fund.

5. Heard the learned counsel appearing on either side and perused the materials available before this Court.

6. It is not in dispute that the first petitioner's wife died on 10.07.2014 due to electrocution. It is also categorically stated in the final report filed by the Investigation Officer in Cr.No.111/2014 that the death of Vasuki was only due to improper maintenance of electric pole and live electric wire snapped from the electric pole. Thus, in my opinion, negligence on the part of the Electricity Board is per-se visible.

7. The next question to be considered is the quantum of compensation. There is no specific method under the Electricity Act or Rules for assessment of the compensation. Courts have consistently held that the structured formula under the Motor Vehicles Act and the principles of law in awarding the compensation to the victims of the accidents in claim cases, can always be applied on the principles of just compensation.

8. According to the first petitioner, she was a plantation worker and earning a sum of Rs.200/- per day. At the time of death, the age of the deceased was 29 years old as could be seen from the postmortem certificate filed before this Court. At the time of death, second petitioner / minor son of the deceased was aged about only 1 year, who has not only lost her love and affection at his tender age, but also her valuable income as it would have helped her minor to go for better study. Thus, this Court, by following the decision Hon'ble Apex Court in Syed Sadiq and others V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), wherein, for a vegetable vendor, in respect of the accident of the year 2008, the Honourable Apex Court, fixed the notional monthly income at Rs.6500/-, even in the absence of any material evidence, is inclined to fix a sum of Rs.6,500/- as the monthly income of the deceased. Accordingly, by fixing so, this Court also hereby adopts multiplier '17' as the deceased was 29 years old, as per the judgment of the Hon'ble Apex Court in Sarla Verma and others v. Delhi Transport Corporation and another [2009 (2) TNMAC 1 (SC)], and again, by following the said judgment, 1/3rd is deducted towards personal expense of the deceased, as the claimants in the deceased family are 2. Again, by following the decision of the Hon'ble Apex Court in Rajesh and others v. Rajbir Singh and others (2013 (3) CTC 883 (SC), this Court hereby adds 50% of her income towards future prospects. Accordingly, loss of dependency is worked out as stated below:

Salary of the deceased = Rs.6,500/- p.m.
50% of the salary to be added
as future prospects = Rs.6500+3250
= Rs.9750/- p.m.
1/3rd of Rs.9750/- is deducted
as personal expenses = Rs.6500/- p.m.

Loss of dependency after multiplier of
17 is applied (Rs.6500 x 12 x 17) = Rs.13,26,000/-

9. Apart from the above, taking note of the fact that the first petitioner / husband of the deceased was only 35 years old and that the second petitioner / minor son of the deceased was only one year old at the time of the fatal incident, this Court hereby awards a sum of Rs.50,000/- towards loss of consortium to the husband and Rs.50,000/- towards loss of love and affection to the minor son. Again, this Court hereby awards a sum of Rs.25000/- towards funeral expenses.

10. In fine, for the reasons stated above, the writ petition is allowed. The petitioners are entitled to a total compensation of Rs.14,51,000/- with interest at 7.5% per annum from the date of incident till the date of deposit. The respondents, after deducting a sum of Rs.2,50,000/- which was already to the petitioners, are directed to pay the balance amount within a period of four weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rkm

To

1.The Superintending Engineer,
Nilgiris Electricity Distribution Circle,
Ooty, Nilgiris - 643 001.

2.The Chairman,
Tamil Nadu Generation of Energy and
Distribution Corporation (TANGEDCO),
Anna Salai, Chennai - 2.

+1cc to Mr.S.K.Raameshuwar,Advocate sr.715

+1cc to Mr.R.Kannan,Advocate sr.632

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ca(co)
ss(7/4/2017)



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