

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.35793 of 2016

1.Selvi @ Senthamarai Selvi
2.Vaishnavi (Minor)
3.Maheshwari (Minor)
4.Mohan raj (Minor)Petitioners
(Petitioners 2 to 4 are minors
rep. by Mother Selvi @ Senthamarai Selvi)

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.
2.The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Thiruvavarur Electricity Office,
Thiruvavarur District.
3.Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Thiruvavarur Electricity Office,
Thiruvavarur District.Respondents

Prayer: This writ petition filed under Article 226 of the Constitution of India, to issue a writ particularly in the nature of a writ of Mandamus, to direct the respondents to pay compensation of Rs.15,00,000/- to the petitioners for death of deceased Kailasam, who died due to the electrocution on 30.04.2013 at Chinnappa land situated at Chittamalli Melapathi Village, Needamangalam Taluk, Thiruvavarur District.

(Prayer amended as per order dated 10.04.2017 in W.M.P.No.8493 of 2017)

For Petitioner : Mr.D.Anbarasan

For Respondents : Mr.P.Gunaraj

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, to direct the respondents to pay compensation of Rs.15,00,000/- to the petitioners for death of deceased Kailasam, who died due to the electrocution on 30.04.2013 at Chinnappa land situated at Chittamalli Melapathi Village, Needamangalam Taluk, Thiruvavarur District.

2.The petitioner's husband was looking for an employment. On 30.04.2013, while he was walking through an agricultural land, he died by snapping on the low voltage electrical wire maintained by the respondents. He left behind the petitioners being the widow and three minor children.

3.In the counter affidavit filed, it has been stated that the live wire fell on the land due to heavy wind blow coupled with rain. As a result of the above said natural calamity, a branch of the tree in the nearby land fell on the wire line which got snapped.

4.Thus, in view of the aforesaid statement made in paragraph No.3 of the counter affidavit, it is clear that even according to the respondents, it is an Act of God and therefore, the petitioner is not responsible for the snapping of the wire.

5.In such view of the matter, there cannot be any negligence that can be attributed to the petitioner since he has not touched the overhead live wire, but, on the contrary died due to the fallen wire from above. Therefore, the principal governing the vicarious liability to the survivor would apply as held by this Court in K.Sambath @ Chidambaranathan vs. The Superintendent Engineer-I, Puducherry Electricity Board, Uppalam, Puducherry and others reported in 2013 Writ L.R. 176.

6.The only other question is one of compensation. The learned counsel appearing for the respondents would submit that as per the judgment referred supra, the petitioner is not entitled for the claim made.

7.The learned counsel appearing for the petitioner by placing reliance on the recent judgment rendered in R.Kumar vs. The Secretary to Government, Electricity Department, Government of Tamil Nadu, Secretariat, Chennai and another reported in 2017 (1) CTC 668 seeks a sum of Rs.10,00,000/-.

8.This Court is of the view that a balance has to be struck off. This is also required to be done without going into the disputed questions of fact. The facts narrated above are not in

dispute. One can take the age of the deceased being 48 years and the factum of relationship between him and the petitioners being the wife and minor children. If that is taken into consideration, this Court is of the view that it would be just and proper to direct the respondents to pay a sum of Rs.7,50,000/- to the petitioners payable as compensation. The petitioners 2 to 4 are minor children. The responsibility has fallen heavily on the shoulders on the first petitioner who is the widow of the deceased. She is also an illiterate women. Thus, considering the same, a sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) is directed to be paid by the respondents to the petitioners payable within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

cse

To

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

2.The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Thiruvarur Electricity Office,
Thiruvarur District.

3.Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Thiruvarur Electricity Office,
Thiruvarur District.

+1cc to Mr.P.Gunaraj, Advocate sr.21498

+2cc to Mr.D.Anbarasan, Advocate sr.21441

W.P.No.35793 of 2016

sal(co)
ss(20/4/2017)