

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.42027 of 2016

1. Mrs.Suguna
2. Minor Prasanth
3. Minor Arun

... Petitioners

(Minors are rep. by their mother and
natural guardian, the first petitioner)

Vs.

1. The District Collector,
Collectors Office,
Sathuvachari, Vellore.
2. The Tamil Nadu Energy Generation Corporation,
Rep.by its Superintending Engineer,
S.E.Office, Tirupattur.
3. The Executive Engineer,
The Tamil Nadu Energy Generation Corporation,
Nos.3 & 4 Perumalpettai,
Vaniyambadi, Vellore District.
4. The Chairman,
Tamil Nadu Electricity Board,
Mount Road, Anna Salai,
Chennai - 600 002.

... Respondents

Prayer: This writ petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, order or direction in the nature of a writ directing the respondents to pay a sum of Rupees Ten Lakhs only (Rs.10,00,000/-) to the petitioner as compensation for the death of Thiru.Sathiyamurthy who died on 18.06.2010 due to electrocution at Aviyar Street, Pudur, Vaniyambadi, Vellore District.

For Petitioner : Mr.P.Chandrasekar

For Respondent : M/s.M.E.Raniselvam,
Additional Government Pleader
(For R1)
Mr.Varunkumar (For R2 to R4)

ORDER

Heard Mr.P.Chandrasekar, learned counsel appearing for the petitioner, M/s.M.E.Raniselvam, learned Additional Government Pleader appearing for the first respondent and Mr.Varunkumar, learned counsel appearing for the respondents 2 to 4.

2.The petitioners are widow and minor children of the deceased Sathiyamurthy, who died due to electrocution by snapping the overhead electricity wire running across the street. Seeking compensation, the petitioners have come forward with this writ petition.

3.From the death certificate dated 18.06.2010, the age of the deceased is stated to be about 40 years. The legal heir certificate dated 28.09.2010 says the name of the first petitioner who is aged about 27 years and the petitioners aged about 7 years and 1 year respectively. The deceased was working as a cobbler.

4.In the counter affidavit filed by the respondents 2 to 4, it has been stated that the accident occurred due to heavy rain, heavy wind and thunder and storm and thus it is an Act of God. Therefore there is a tacit acceptance on two counts. The deceased was not responsible for the accident and it occurred due to Act of God by snapping the overhead electricity wire running over the street.

5.Learned counsel for the petitioner has made reliance on the decision of this Court reported in 2017 (1) CTC 668 (R.Kumar vs. The Secretary to Government, Electricity Department, Government of Tamil Nadu, Secretariat, Chennai-2 and another) involving identical facts. Thus there is no dispute on facts before this Court and therefore only other issues to be decided on just compensation.

6.In the aforesaid Judgment, it has been held as follows:

"9.The learned Counsel for the petitioner would also rely upon the judgment of this Court in the case of K.Sambath @ Chidambaranathan v. The Superintendent Engineer-I, Puducherry Electricity Board, Uppalam, Puducherry and two others, W.P.No.17691 of 2009, dated 02.01.2013, wherein, it is held that the respondents are liable to pay compensation in the writ petition, when there are no factual disputes with regard to the manner of death.

10.The last question, which needs to be addressed is the quantum of compensation payable to the petitioner. This Court in the above Judgment, dated 02.01.2013, relied on a decision of the Supreme Court and it is useful to refer the following observations of this Court:

"How the Court should decide the cases of this nature is emphasised by the Supreme Court in the decision reported in Ibrahim v. Raju, 2011 (10) SCC 634. In Para 9 is held thus,

"9.This Court has time and again emphasised that the officers, who preside over the Tribunals adopt a proactive approach and ensure that the claims filed under the Act are disposed of with reacquired urgency and compensation is awarded to the victims of the accident and/or their legal representatives in adequate measure keeping in view the relevant factors. Unfortunately, despite repeated pronouncements of this Court in which guiding principles have been laid down for determination of the compensation payable to the victims of road accidents and/or their families, the Tribunals and even the High Courts do not pay serious attention to the imperative of awarding just compensation to the claimants."

In Ramesh Kumari v. Madan Mohan, 2009 (13) SCC 422, the Supreme Court pointed out the need of giving just compensation to the victim. In paragraphs 26 & 27 it is held thus:

"26.The compensation which is required to be determined must be just. While the claimants are required to be compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms.

"27.The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect, he might have become eligible to promotion immediately, there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote.

It is, therefore, difficult for any Court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so".

This Court is bound to bear in mind the above stated principles for arriving at just compensation."

7. Though this Court has awarded Rs.10,00,000/- (Rupees Ten Lakhs only) in the aforesaid case by taking into consideration of the future earning, this Court is inclined to fix the compensation at Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only). This is for the reason that the deceased in the aforesaid case was aged about 27 years, as against the present case, in which the deceased was aged about 40 years. Accordingly taken into consideration of the age of the deceased as well as the petitioners being the widow and very young children, a sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) has been fixed apart from taking note of the earning capacity both present and future. The amount quantified will have to be paid by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above observation, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse/abr

To

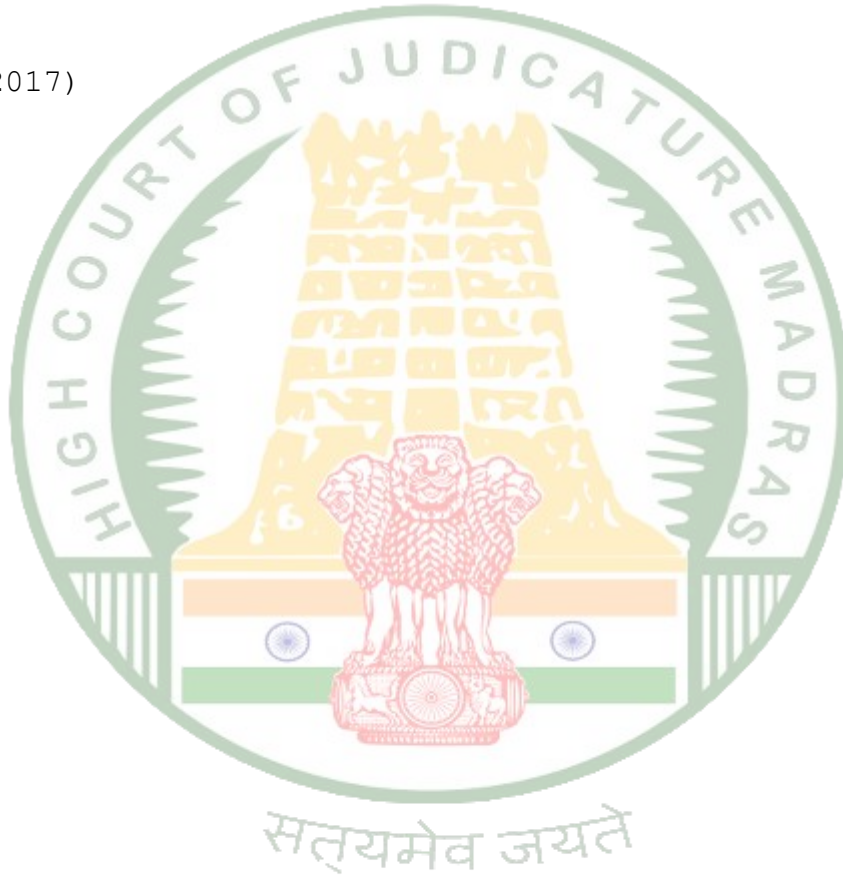
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+2cc's to Mr.P.Chandraseka, Advocate, S.R.No.20134
+1cc to Mr.T.Varunkumar, Advocate, S.R.No.20417
+1cc to the Government Pleader, S.R.No.20231

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SK(CO)
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