



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A.(MD).No.1421 of 2014
against
WP(MD)No.14626 of 2014

1.The Chief Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., TANGEDCO
K.Pudur, Madurai.

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., TANGEDCO
Theni Distribution Circle,
Theni.

... Appellants/Respondents 1&2

Vs.

1.The District Collector,
Theni District, Theni.

...1st Respondent/3rd Respondent

2.P.Palaniyammal

...2nd Respondent/Writ Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent Act, to set aside the order dated 05.09.2014 made in W.P.(MD)No.14626 of 2014.

Prayer in WP(MD). 14626/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to grant compensation to her for the electrocution death of the Petitioner's husband by considering the petitioner's representation dated 9.12.2013 within the period stipulated .



For Appellant
For Respondent

: Mrs.S.Srimathy
: Mr.M.Govindan, Spl.G.P. For R1
Mr.A.Haja Mohideen for R2

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J U D G M E N T

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This writ appeal is directed against the order dated 05 September 2014 made in W.P.(MD) No.14626 of 2014, whereby the appellants were directed to pay a sum of Rs.4,00,000/- towards compensation to the writ petitioner, whose husband died due to electrocution.

2.The husband of the second respondent herein was working as a Sweeper. He was directed to carry out certain cleaning works. When he was engaged in the said work, he came in contact with a live wire, which was hanging on the temple wall leading to his death due to electrocution. The second respondent herein thereupon represented to the appellants seeking payment of compensation. Since it was not considered, she filed W.P.(MD) No.14626 of 2014. The learned Judge allowed the writ petition and directed the appellants to pay a sum of Rs.4,00,000/- towards full and final settlement of all the claims made by the writ petitioner against the Board.

3.The order passed by the learned single Judge is questioned principally on the ground that the deceased was directed by the local body to clean the toilet belonging to the temple and that the accident occurred inside the temple premises. Therefore, according to the appellants, it was the temple, which as a consumer was to adhere to the safety standards, is liable to pay the compensation. The temple had not maintained the wiring properly. The entire negligence is attributed to the temple and not to the Board. The learned counsel for the appellants therefore contended that fastening the liability on the Board was incorrect and that it is the temple that should be made liable to pay compensation.

4.We carefully went through the order passed by the learned single Judge.

5.The appellants, who were shown as respondents 1 and 2 in the writ petition did not appear to have taken this plea before the learned single Judge. As could be discerned from the order of the learned single Judge, the only argument put forth was that as per the Board, in cases, where death is caused due to electrocution, that too not on account of the negligence of the deceased, the Board will pay a maximum amount of Rs.2,00,000/- and

that if the claimant seeks further compensation, the matter has to go before the Civil Court and remedy under Article 226 of the Constitution of India would not lie.

6. There is no reference to the negligence on the part of the temple. In the writ petition, counter was also not filed. Therefore, we cannot permit the appellants to raise a plea that was not taken before the learned single Judge. Hence, we sustain the order passed by the learned single Judge fixing the liability on the appellants. The deceased was a sanitary worker employed by the local body. He died in the course of discharging his duties. It is admitted that he died on account of electrocution. The learned Judge had applied the settled principles of law while awarding the sum of Rs.4,00,000/-. We find no merit in this writ appeal.

7. Accordingly, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

The District Collector,
Theni District, Theni.

+One cc to Mr.A.Haja Mohideen, Advocate, SR.No.68263

skm/Arul

RL/3C/3P/RSK/SAR1/9/8/2017

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WP (MD) No.14626 of 2014

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