



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 17.03.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.2796 of 2014

1.S.Deivendaran

2.D.Shanthi

..Petitioners

Vs

1.The State of Tamil Nadu,
through its Chief Electrical Inspector,
Department of Electrical Inspectorate,
Fort St.George, Chennai.

2.The Chairman,
Tamil Nadu Generation and Distribution Corporation,
Formerly TNEB,
Mount Road,
Chennai-2.

3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation,
Formerly TNEB,
Meenakshinaickenpatti,
Dindigul Town,
Dindigul.

4.The Executive Engineer, (Distribution South),
Tamil Nadu Generation and Distribution Corporation,
Formerly TNEB,
Dindigul Town,
Dindigul.

5.The Assistant Executive Engineer,
Tamil Nadu General and Distribution Corporation,
Formerly TNEB, Distribution South,
Pooncholai Road, Keezhakottai Village,
Chinnalapatti, Dindigul.

6.The Inspector of Police,
Chinnalapatti Police Station,
Dindigul District,
Dindigul.

..Respondents.



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 5 to pay a sum of Rs.5 lakhs with interest at 9% from 14.10.2012 till the date of payment/realization, towards compensation for the death of the Petitioners son due to Electrocution.

For Petitioner :M/s.M.P.Senthil
 For Respondent-1 :Mr.M.Alaguthevan
 Addl.Govt.Pleader
 For Respondents :Mr.S.M.S.Johnny Basha
 2 to 5 Standing Counsel for TNEB

ORDER

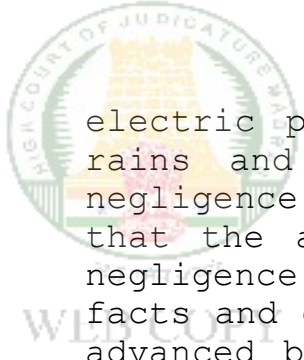
The Petitioners have approached this Court seeking for issuance of a Writ of Mandamus directing the respondents 1 to 5 to pay a sum of Rs.5 lakhs with interest at 9% from 14.10.2012 till the date of payment/realization, towards compensation fro the death of the Petitioners' son due to Electrocution.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioners only son Saravanamukar was born to them in the year 1993. On 14.10.2012, their son had touched a live wire due to poor maintenance, while taking the two wheeler for ride back home came in contact with the snapped wire and electrocuted. According to the Petitioner, due to poor maintenance, the live wire had fallen upon him and which resulted in fatal accident and their only son died on the said date itself. He being the only son and the bread-winner of the family, the family suffered untold mental agony and hardship. Loosing their only son at such an young age, when he had a bright future, never to be compensated in terms of money. Nevertheless due to the negligent act of the Electricity Board officials, the petitioners' son had died in the circumstances as stated above.

4.According to the Petitioners, at the time of accident, their son was earning Rs.6000/- p.m and the sudden death of their son virtually rendered the Petitioners as orphans and that they have no moral support and the Petitioners' being parents of the only son, has to lead their remaining life without any hope. In these circumstances, the Petitioners approached this Court seeking issuance of a Writ of Mandamus to the respondents 1 to 5 to pay a sum of Rs.5 lakhs with interest at 9% from 14.10.2012 till the date of payment/realization of the compensation.

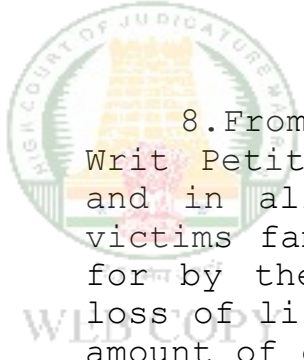
5.On behalf of the respondents/Electricity Board, reply submitted to the court has been filed stating that the respondents are carrying out maintenance work periodically and moreover, it was regularly advertised, awareness created to avoid touching the



electric poles, that too, at the time of rains, wetness due to rains and it is also contended that there is a contributory negligence on the part of the deceased also. It was contended that the accident was caused due to the act of the god and no negligence on the part of the Electricity Board. From the above facts and circumstances, I am unable to appreciate the contention advanced by the Electricity Board. No sane person would wantonly and deliberately get in touch with live electric wire. Particularly, in the instant case, the person who died because of the tragic accident was only 20 years old and the cause of death clearly prove that the wire had fallen upon him, when he was proceeding in a two-wheeler. It is also contended on behalf of the Electricity Board that the Petitioners have to approach the competent civil Court for claiming damages. The Writ jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked seeking such compensation.

6, I once again failed to appreciate that the contention advanced on behalf of the Electricity Board in view of the fact that cause of death as exemplified would show that there was negligence on the part of the Electricity Board and therefore the Petitioners need not be driven to Civil Court for establishing their rights for payment of compensation.

7. Per contra, the learned counsel for the Petitioners would submit that there were several decisions rendered by this Court awarding compensation in similar circumstances. In the case of Arulmeri .vs. The Superintending Engineer, Tamil Nadu Electricity Board, Ramanathapuram and another reported (2013) 2 ML 302, wherein, this Court has categorically held that there was no dispute to the cause of death which occurred due to the negligence of the Board and no need to go for the Civil Court to establish the death which occurred due to electrocution and the court held that the Petitioner was entitled to compensation.. In similar circumstances, this Court in another decision in the case of Saroja .vs. Government of Tamil Nadu reported in 2014(3) CTC 553, wherein, it has been held that Writ Petition in such circumstances clearly maintainable and award of compensation on the basis of the facts and circumstances of the case. In fact, one other decision of this Court in the case of R.Pareetha Beevi .vs. The Chariman, Tamil Nadu Electricity Board reported in 2014(2) CWC 337, this Court discountenanced the argument that such death was due to the act of the God and directed payment of compensation of Rs.5 lakhs for the victims family. There is also yet another decision in the case of P.Srinivasan .vs. The Chairman, TNEB, reported in 2012(1) CWC 469, wherein, this Court held that Writ jurisdiction is available for claiming compensation in similar circumstances. In all these cases, the respondents was only the Electricity Board and none lese.



8. From the above, it is unequivocally established that the Writ Petition is perfectly maintainable for seeking compensation and in all these cases cited, the compensation awarded to the victims family was more or less, what is the compensation prayed for by the victims in the present Writ Petition. Moreover, the loss of life of an young age cannot be compensated, howsoever, the amount of compensation which may be awarded, as the parents agony and losing their only son would continue to linger throughout their life-time. In such circumstances, driving them to resort to civil litigation would only compound their agony and misery.

9. In these circumstances, I am fully convinced that the Petitioners have made out a case for grant of compensation in all fours. Therefore, the Writ Petition as prayed for is allowed and the respondents/Electricity Board is directed to pay compensation of Rs.5 lakhs to the Petitioners for the death of their only one son, within a period of 12 weeks from the date of receipt of a copy of this order. In case, the compensation is not paid within the time stipulated herein, the respondents/Electricity Board is directed to pay interest at the rate of 9% p.a from the date of expiry of 12 weeks(90 days) to till the date of realization of the compensation amount. No costs.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Electrical Inspector,
Department of Electrical Inspectorate,
Fort St. George, Chennai.
2. The Chairman,
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6.The Inspector of Police,
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Dindigul.

+1CC to M/S.S.M.S.Johnny Basha, Advocate, SR.No. 15623

+1CC to M/S.M.P.Senthil, Advocate, SR.No. 15771

W.P (MD) No.2796 of 2014
17.03.2017

vsn

AM/RR/SAR-2/07.04.2017/5P/9C