



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.1531 of 2016
and
C.M.P(MD)No.11169 of 2016

- 1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-2.
- 2.The Additional Chief Engineer,
Tirunelveli Electricity Distribution
Circle,
Tamil Nadu Electricity Board,
Tirunelveli.
- 3.The Superintending Engineer
(Operation and Maintenance),
Tirunelveli Electricity Board,
Tirunelveli.
- 4.The Divisional Engineer(Maintenance),
Tamil Nadu Electricity Board, Tenkasi.
- 5.The Junior Engineer,
Tamil Nadu Electricity Board,
Sundarapandiyapuram,
Tenkasi Taluk.

... Appellants

Vs.

- 1.S.Kavikkuyil
- 2.Minor S.Baby Sumithra,
D/o.Late S.Seenipandian
- 3.Minor S.Thesima
D/o.Late S.Seenipandian.
(Res.2 & 3 rep.by their mother
natural guardian of 1st respondent)

... Respondent

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent, pleased to set aside the order dated 30.09.2015 passed in WP(MD)No.14838 of 2011.



Prayer in WP(MD). 14838/ 2011 :

Writ Petition is 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 compensate the petitioners by paying compensation of Rs.25,00,000/- towards the death of the 1st petitioner's husband and 2nd and 3rd petitioner's father which was due to the negligence of the electricity board within the period that may be stipulated by this Honourable Court.

For Appellants : Ms.S.Srimathy
For Respondents : Mr.C.Karthik

J U D G M E N T

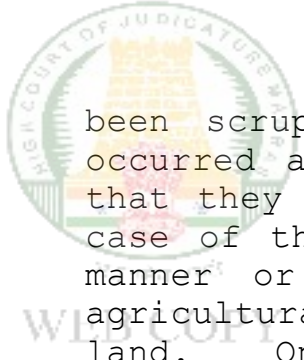
[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

The Tamil Nadu Electricity Board is on appeal challenging the order dated 30.09.2015 made in WP(MD)No.14838 of 2011 filed by the respondents herein.

2.The husband of the first respondent herein was doing agricultural work in their land in Malapavurchatram on 21.11.2010. On account of the electricity leakage in the electric post, when he touched the same, the husband of the first respondent was thrown away and he died as a result. The respondents contended that the said death was solely due to the negligence of the appellant Board. Therefore, they claimed compensation. Since the request for payment of compensation was not considered, WP(MD) No.14838 of 2011 came to be filed. The learned Judge allowed the writ petition and directed the appellants to pay compensation of Rs.11,38,000/- with interest. Aggrieved by the same, this intra Court appeal has been filed.

3.The learned counsel for the appellants reiterated the contentions set out in the grounds of appeal.

4.We carefully considered the materials on record. It is beyond dispute that the deceased died on account of electric shock. The cause of death is not in doubt. This Court is entitled to take into account the First Information Report and also the Postmortem report. Therefore the contention of the appellants that there are disputed questions of fact cannot be sustained. It is the duty of the appellants Board to adhere to appropriate safety standards. This is a statutory obligation caused on the appellants Board. If appropriate safety norms had



been scrupulously adhered to, this accident would not have occurred at all. Therefore the contention of the appellants that they cannot be liable cannot be accepted. It is not the case of the appellant that the deceased had acted in a reckless manner or had voluntarily courted danger. He was doing agricultural work. There is an electric pole implanted in his land. Only on account of the leakage, simple contact with the electric post had led to his death. Hence, the appellants are to be necessarily held liable for the occurrence. The learned Judge rightly fixed the liability on the appellants. Having done so, the learned Judge applied the formula set out in Motor Vehicles Act for computing the compensation.

5. We see nothing wrong in the approach of the learned Judge. Adopting the principles for computing the compensation as evolved in motor vehicles accident cases cannot be said to be arbitrary. On the other hand, it is a reasonable one. Sustaining the reasoning adopted by the learned Single Judge, we confirm the order made in the writ petition. It is open to the respondents to withdraw the sum deposited by the appellants Board pursuant to the direction given by the Division Bench of this Court dated 28.11.2016. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.C.Karthik, Advocate, SR.No.71968

Skm / Arul

RL/2c/3p/SV/MMS/SAR1/8/9/2017

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