



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.19035 of 2017 and
W.M.P. (MD) No.15375 of 2017**

T.Joseph

... Petitioner

-vs-

1. The Chairman,
TANGEDCO Ltd.,
144, Anna Salai,
Chennai-600 002.

2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Kanyakumari Electricity Distribution Circle,
Parvathipuram, Nagercoil,
Kanyakumari District.

3. The Assistant Executive Engineer (Distribution),
Tamil Nadu Electricity Board,
Kuzhithurai, Kanyakumari District.

4. The Junior Engineer (Distribution),
Tamil Nadu Electricity Board,
Eravipudur Kadai, Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay a compensation and damages of Rs.10,00,000/- (Rupees Ten Lakhs only) with 9% accrued interest per annum to the petitioner for causing death of his deceased wife Pushpalatha, aged about 45 years due to the negligent act of the respondents.

For Petitioner : Mr.C.Kishore
For Respondents : Mr.S.M.S.Johnny Basha

ORDER

This writ petition has been filed, seeking a direction to the respondents to pay a compensation and damages of Rs.10,00,000/- (Rupees Ten Lakhs only) with 9% accrued interest per annum to the petitioner for causing death of his deceased wife



Pushpalatha, aged about 45 years due to the negligent act of the respondents.

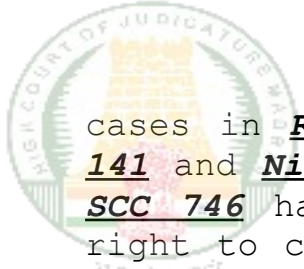
2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents. By consent on either side, the writ petition itself is taken up for final disposal at the admission stage.

3. The case of the petitioner is that he is a coolie and on 26.08.2016, when his wife went to purchase milk, she came into contact with a live electric wire lying on the road and was electrocuted, which was only due to poor maintenance of electric poles / wires and negligent part of the respondents. In this regard, a case in Crime No.371 of 2016 on the file of Thiruvattar Police under Section 174 Cr.P.C., was also registered. Subsequently, the petitioner submitted a representation dated 20.02.2017 to the respondents claiming compensation and the same has not been considered till now. Having found no other efficacious remedy, he has knocked at the doors of this Court by filing the present writ petition.

4. Learned counsel for the petitioner has relied upon the judgments of the Hon'ble Division Bench of this Court in the case of **The Chairman, TNEB, Madras and another vs. Parvathi Ammal and six others**, reported in **2003 (4) CTC 517** to substantiate his argument that the accident had happened not because of an act of God, but owing to negligent part of the respondents, especially the 4th respondent and his subordinates and the Department was at fault in not taking necessary precautions to prevent such mishaps.

5. On the other hand, the learned Standing Counsel for the respondents would repudiate the above submission contending that it is incorrect to state that the Department had not provided necessary precautionary measures for avoiding such accidents. In fact, periodical maintenance work is being conducted from time to time and the accident would perhaps be on account of the illegal hooking of wire. However, he has submitted that the petitioner has already submitted a representation dated 20.02.2017 to the respondents and if a reasonable time is granted by this Court, the same will be considered and suitable orders passed.

6. Nothing can compensate the vacuum occurred due to a death and to add fuel to fire, the petitioner is made to run from pillar to post for compensation. According to the petitioner, his wife was the sole breadwinner of the family, as he is in continuous ailment. This Court had, in several judgments, dealt with the same issue and ordered payment of compensation to the affected parties. The Hon'ble Division Bench of this Court in the judgment referred to above also granted compensation to the respondents/plaintiffs therein. The Hon'ble Supreme Court in the



cases in Rudul Sah vs. State of Bihar, reported in (1983) 4 SCC 141 and Nilabati Behera vs. State of Orissa, reported in (1993) 2 SCC 746 has extensively dealt with the issue and held that the right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and Courts can grant compensation for deprivation of a fundamental right.

7. Under such circumstances, this Court directs the respondents to consider the claim of the petitioner in respect of payment of compensation for the death of his wife on account of electrocution on the basis of the representation dated 20.02.2017, submitted by him and pass appropriate orders thereon on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order in the light of the judgments of this Court as well as the Hon'ble Supreme Court (cited supra).

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

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

+ 1 cc TO Mr.C.Kishore , Advocate in SR No. 82920

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AE/KP/SAR4/02.11.2017/3P/2C

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