



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to pay a sum of Rs.10 lakhs as compensation to the Petitioners herein together with interest at 12% per annum from 07.07.2010 within a time to be stipulated in accordance with law.

WEB COPY

For Petitioners : Mr.M.Subash Babu (No Appearance)
For Respondents : Mr.G.Kasinatha Durai (for R1 to R5
Mr.S.Baskaran (for R6 and R7)

O R D E R

The petitioner has filed a petition to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs. 10 lakhs as compensation to the petitioners herein together with interest at 12% per annum from 07.07.2010 within a time to be stipulated in accordance with law.

2.The case of the petitioners is that they are the Dependants/legal heirs of one Muthuramalingam, who worked in Forest Department as a Gardner at Narikudi Section, Virudhunagar Forest Range. On 07.07.2010 while the said Muthuramalingam proceeded near K.V.S. School Virudhunagar, unfortunately he met with a motor vehicle accident by dashing as against a high power wire line cut down by the workman of the respondents 1 to 5 / Electricity Board, without adopting any safety measure or caution. Out of the said accident he sustained head injury and in spite of due treatment given in the Government Hospital he died. Thus said Muthuramalingam died out of the negligent act of the workman of the respondent Electricity Board, for which it is vicariously liable. Therefore the petitioners have come up with the present writ petition praying for a direction to the respondents to pay sum of Rs.10,00,000/- as compensation to the petitioner herein.

3.I heard Mr.M.Subash Babu, learned counsel for the petitioners, Mr.G.Kasinatha Durai, learned counsel for the respondents 1 to 5 and Mr.S.Baskaran, learned counsel for the respondents 6 and 7 and perused the entire records.

4.The contention of the Learned Counsel for the petitioners in nutshell is that it is the negligent act of the Electricity Board personnel which caused the death of the said Muthuramalingam and therefore the Electricity Board is liable to pay the compensation. He also added that if the respondents acted with due care and caution the accident would not have happened.

5.Therefore, a legal notice dated 26.07.2010 was caused upon the respondents 1-5 herein calling them to pay compensation towards the accidental death of the sole breadwinner of their family. However, as it was replied by the respondents 1 to 5 vide a reply notice dated 16.10.2010 that the above accident occurred only because of a rash and negligent driving of a TNSTC bus bearing ~~se 67 N 0617~~ TN 67 N 0617, which hit the electricity wire and thereby the wire fell down on road, whereby said Muthuramalingam hit over the wire and fell down sustaining injuries.



6.It is the further contention of the petitioner that the averment made by the respondent Electricity board is false and unsustainable and that the death of the said Muthuramalingam is solely because of the negligent act of the respondent Electricity Board. However to avoid complexity, the TNSTC is also added to the writ petition as a formal party.

7.Per contra, the Learned Standing Counsel for the respondents' Electricity Board filed counter and contended that they are not responsible for the cut down of the electricity wire which caused the accident. It is only because of the fact that the bus bearing No. TN 67 N 0617 belonging to the respondents 6 and 7 hit and caused the wire to fell down and the same caused the accident.

8.On perusal of the records it is prima facie found that the accident has occurred by dashing as against a cut down wire belonging to the respondents 1 to 5. At the same time it is noticed that it is their contention that the bus belonging to the respondents 6 and 7 had caused the wire to cut down by yet another accident, previous to the accident occurred to the said Muthuramalingam.

9.At this juncture this Court in view of the above submission find that the case on hand involve disputed question of fact which cannot be gone into by this Court under Article 226 of the Constitution of India. However, at the same time respondents 1 to 5 cannot disown their liability, by merely pointing their finger on the respondents 6 and 7.

10.In the above factual background this Court deems fit to direct the respondents 1 to 5 to consider the representation of the petitioners dated 28.08.2010.

11.In the result, the writ petition is disposed of by directing the respondents to consider the petitioners' representation dated 28.08.2010, by giving personal opportunity and to pass orders within a period of eight weeks from the date of receipt of a copy of this order, for considering the payment of compensation to the petitioners together within interest at the rate of 12% per annum from 07.07.2010. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Chairman,
Tamil Nadu Electricity Board,
<https://hcservices.ecourts.gov.in/hcservices/>
Anna Salai,
Chennai.



- 2.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Virudhunagar District.
- 3.The Assistant Engineer, (Town West),
Tamil Nadu Electricity Board,
Virudhunagar District.
- 4.The Executive Engineer, (Town West),
Tamil Nadu Electricity Circle,
Virudhunagar District.
- 5.The Assistant Executive Engineer, (Town West),
Tamil Nadu Electricity Circle,
Virudhunagar District.
- 6.The General Manager,
Tamil Nadu State Transport Corporation,
Chennai.
- 7.The Divisional Manager,
Tamil Nadu State Transport Corporation,
Virudhunagar District.

+1cc to M/S.M.Subash Babu, Advocate SR.No. 10862

+1cc to M/S.G.Kasinatha Durai, Advocate SR.No. 10871

order made in
WP (MD) No.3066 of 2011
24.02.2017

VSA/SKN

JM/SV MMS/SAR 1/08.02.2018/4P/10C