



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM :

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THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**Writ Petition(MD)No.14838 of 2013andM.P(MD)No.2 of 2013andW.M.P(MD)No.10609 of 2016

- 1.M.Pushpavalli
- 2.A.Nathiya
- 3.Suthaindrapandi
- 4.Sakkaraithevar
- 5.Veerammal

... Petitioners

Vs.

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
K.Pudur, Madurai 7.
2. The Executive Engineer,
Tamil Nadu Electricity Board,
Usilampatti Taluk,
Madurai District.
3. The Assistant Engineer,
Tamil Nadu Electricity Board
Valandur Post,
Usilampatti Taluk,
Madurai District.

... Respondents

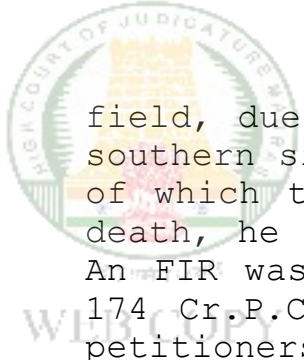
Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus, directing the respondents to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs) as compensation to the petitioner.

For Petitioner	: Mr.N.Murugesan
For Respondents	: Mrs.S.Srimathy

ORDER

The petitioners, who are wife, children and parents of the deceased S.Minor respectively sought for compensation for the death of said S.Minor due to electrocution which had happened on 23.10.2011.

2.It is the case of the petitioners that when the first petitioner and her husband namely, S.Minor were working in the



field, due to the leakage of electricity through stay wire on the southern side of the electric post he was thrown away. As a result of which the first petitioner's husband died. At the time of his death, he was aged about 45 years who was an agricultural coolie. An FIR was also registered in Crime No.157 of 2011 under Section 174 Cr.P.C. against the officials of the Electricity Board. The petitioners have sought for compensation of Rs.10 lakhs for the death of the said Minor in the said accident.

3.The factum of the accident is not in dispute. It is claimed in the counter affidavit that the accident had occurred only due to the fact that the deceased, while doing the agricultural activities, touched the live wire.

4.The claim of the petitioners that the wires are not properly maintained is also denied. It is also submitted that if there was any negligence on the part of the officials of the Electricity Board, it has to be proved by evidence. Hence, the present writ petition seeking compensation would not lie.

5.Mr.N.Murugesan, learned counsel for the petitioner would rely upon a judgment of this Court reported in Arulmeri Vs. Superintendent Engineer, TNEB reported in (2013) 2 MLJ 302 as well as the judgment of the Hon'ble Supreme Court in Tamil Nadu Electricity Board Vs.Sumathi and others reported in (2000) 4 SCC 543.

6.In the judgment of the Hon'ble Supreme Court, it has been held that if the negligence is on the face of the matter and the body or authority concerned was exercising power in discharging of a of public duty and there has been a violation of Article 21 of the Constitution, there would be no bar for initiation of proceedings under Article 226 of the Constitution.

7.In Arulmeri's case cited supra, this Court has held that if the factum of death due to electrocution is not in dispute, there is no need for the petitioner to go before the Civil Court to establish the cause of death or negligence. Therefore, the petitioner would be entitled to compensation under Article 226 of the Constitution.

8.The Hon'ble Supreme Court in Raman Vs. Uttar Haryana Bijli Vitran Nigam Limited and others reported in (2014) 15 SCC 1 has held that in an appeal arising out of writ proceedings has allowed the appeal directing compensation to be payable to the legal heirs of the injured who had subsequently died. Therefore, the power of the Court to grant compensation for victims of electrocution if the cause of the accident is not disputed cannot be questioned.

9. So far as the quantum of compensation, the deceased was aged about 45 years, at the time of death and agricultural coolie. Even though, he is an agricultural coolie, his monthly income could be taken as Rs.4,500/-, after deducting 1/3rd amount towards his personal expenses, the monthly contribution to the family can be fixed at Rs.3,000/-. Since the deceased is aged 45 years, multiplier '14' as suggested under schedule II of the Motor Vehicles Act, 1988 can be applied. If so worked out, the compensation will come to Rs.5,04,000/- which is rounded off to Rs.5 lakhs.

11. The writ petition is allowed. Rule nisi is made absolute. Consequently, the respondents-Electricity Board is directed to pay a sum of Rs.5 lakhs towards compensation to the petitioners within a period of four weeks from the date of receipt of a copy of this order. In default, the sum of Rs.5,00,000/- shall carry interest at the rate of 7.5% per annum from the date of filing of the writ petition namely, 04.09.2013 till the date of payment.

12. Out of the said sum, the parents of the deceased, namely, the petitioners 4 and 5 would be entitled to Rs.75,000/- each. The married daughter, namely, the second petitioner would be entitled to a sum of Rs.50,000/-. The petitioners 1 and 3, namely, the wife and son of the deceased would be entitled to a sum of Rs.1,50,000/- each. No costs. M.P(MD)No.2 of 2013 and W.M.P (MD)No.10609 of 2016 are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

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Tamil Nadu Electricity Board,
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2. The Executive Engineer,
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Usilampatti Taluk,
Madurai District.

3. The Assistant Engineer,
Tamil Nadu Electricity Board
Valandur Post,
Usilampatti Taluk, Madurai District.



+1cc to M/S.N.MURUGESAN, Advocate SR.No.53314

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and
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and
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JM/KP/SAR 4/02.05.2017/4P/5C