

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.11615 of 2013

Mrs.Julaika Begum

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Generation
And Distribution Co.,
No.144, Anna Salai,
Chennai -2.

2.The Assistant Engineer,
Operation and Maintenance,
Chennai Electricity Distribution Circle - South,
Chennai - 45.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, directing the respondents to pay adequate compensation to the petitioner for untimely death of Master M.Mohamed Fawaaz, due to electrocution on 01.01.2013, due to the negligence of the respondents.

For Petitioner : Mrs.Vasugi Ramanan

For Respondents : Mr.S.K.Rameshuwar
Standing counsel

सत्यमेव जयते
O R D E R

This writ petition has been filed for issuance of a writ of mandamus, directing the respondents to pay adequate compensation to the petitioner for untimely death of her son M.Mohamed Fawaaz, due to electrocution on 01.01.2013.

2.The case of the petitioner is that she is having three daughters and one son viz., M.Mohamed Fawaaz, aged about 12 years. On 01.01.2013, she along with her son visited her family friend Mr.Sadhu Jaganathan, who is residing at Mudichur Road, West Tambaram to wish him happy new year. However, unfortunately her only son died due to electric shock. Immediately the incident was informed to the police authorities and the

deceased was subjected to postmortem by the Government Doctors. The further case of the petitioner is that the incident had taken place on 01.01.2013, due to the negligence of the electric board.

3. The second respondent has filed a counter refuting the allegations of the petitioner and also stated that the accident had taken place, due to the negligence of the house owner, who had failed to inform the department about the dashing of the electric post with 11 KV HT line by the unknown vehicle and leaning of the said electric post towards the house. It is further stated that in the First Information Report itself stated that the fatal accident was occurred, due to negligence of the owner of the house and parents of the deceased and that the writ petition is not maintainable, since disputed question of facts are involved.

4. I have heard Mrs.Vasugi Ramanan, learned counsel for the petitioner and Mr.S.K.Rameshuwar, learned Standing counsel appearing for the respondents and perused the materials available on record.

5. In the case on hand, it is not disputed that the son of the petitioner died due to electrocution on 01.01.2013 and immediately the police had registered a case under Section 174 Cr.P.C, based on the complaint of the petitioner. The documents annexed in the typed set of papers establish that the deceased came into contact with the live wire which was leaning on the terrace of the house owner. The death certificate issued by the Registrar of Birth and Death shows that the deceased was 12 years old at the time of accident. The case of the respondents that the owner of the house, failed to inform the Electricity Board about the leaning of the electric post was not established by relevant materials. It is not in dispute that a duty is cast upon the respondents Electricity Board to maintain the electric lines in a proper manner. Hence, I do not find any substance in the contention raised by the respondents.

6. It is settled law that in a writ petition filed invoking Article 226 of the Constitution of India, this Court in deserving cases can award compensation with an aid of the principles for determining compensation under the provisions of the Motor Vehicles Act.

7. In similar facts in W.P.No.8285 of 2013, I have award compensation of Rs.2,25,000/- (Rupees Two Lakhs Twenty Five Thousand only) by following the decision of the Supreme Court in the case of R.K.Malik and another Vs. Kiran Pal and others reported in 2009 (14) SCC. This Court in W.P.No.7878 of 2013, by order dated 13.3.2018, has ordered Rs.2,00,000/-, for the death

of the child and also directed the Electricity Board to pay an additional amount of Rs.2,00,000/- as no fault liability.

8. Taking note of the above facts, this writ petition is allowed and the respondent Electricity Board is directed to pay total sum of Rs.4,25,000/- (Rupees Four Lakhs Twenty Five Thousand only) towards compensation within a period of eight weeks from the date of receipt of a copy of this order, along with interest at the rate of 9% per annum from the date of this order till the date of payment. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Electricity Generation
And Distribution Co.,
No.144, Anna Salai,
Chennai -2.
2. The Assistant Engineer,
Operation and Maintenance,
Chennai Electricity Distribution Circle - South,
Chennai - 45.

+1cc to Mr.M.Kempuraj, Advocate, S.R.No.52303

+1cc to Mr.S.K.Rameshuwar, Advocate, S.R.No.52135

सत्यमेव जयते

W.P.No.11615 of 2013

pvs (Co)

cs/04/09/18

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