

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.34035 of 2013

R. Krishnan
S/o M.K. Ramaswamy Pillai

...Petitioner

Vs.

- 1.The Chief General Manager,
National Highways Authority of India,
Butt Road, Kathipara, Chennai - 600 016.
- 2.The Project Director,
National Highways Authority of India,
Butt Road, Kathipara, Chennai - 600 016.
- 3.The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Villupuram, 605 602.
- 4.The Chief Engineer,
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore 632 001.
- 5.The Superintending Engineer,
Tamil Nadu Electricity Board,
Kancheepuram 631 501.
- 6 The Executive Engineer,
Tamil Nadu Electricity Board,
Cheyyur, 603 302, Kancheepuram District.
- 7.The Assistant Executive Engineer,
O & M, Tamil Nadu Electricity Board,
Melmaruvathur 603 319.
- 8.The Junior Engineer,
O & M, Tamil Nadu Electricity Board,
Melmaruvathur 603 319.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents herein to pay a compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the petitioner for the death of Smt.Chennammal, wife of the petitioner, within a time to be stipulated by this Court.

For Petitioner : Mr.N.E.A.Dinesh
For Respondents: Mr.Richardson Wilson,
for M/s.P.Wilson Associates (for RR1 to 3)
Mr.S.K.Rameshwar, (for RR4 to 8)

ORDER

The petitioner prays for a direction to the respondents to pay compensation at Rs.10,00,000/- (Rupees Ten Lakhs only) for the death of his wife Smt.Chennammal due to the negligence of the respondents.

2. Heard the learned counsel for the petitioner and the learned Counsels for the respondents and perused the materials available on record.

3. The case of the petitioner is that his wife Chennammal, aged about 50 years, was on pilgrimage to Melmaruvathur Sri Adhiparasakthi Temple, on 28.12.2012. The petitioner would allege that his deceased wife while crossing the road on seeing the sign board came into contact with live electric wire fixed in the open terminal box of lamp post on the centre median at GST road and died instantaneously due to electrocution.

4. The petitioner would further allege that the respondents did not take necessary precautionary steps to close the terminal box with door, which led to the death of the petitioner's wife. The further case of the petitioner is that the Melmaruvathur police registered a case in Crime No.486 of 2012 with regard to the death of his wife and the Assistant Medical Officer, issued a Post-mortem certificate confirming the death of his wife due to electric shock.

5. It is further stated that his four children have got already married and they are living separately and the petitioner was taken care of by his wife, as he was suffering from urinary track infection, underwent hernia operation and also suffering from ortho problems. The deceased was working as a construction worker and she earned Rs.400/- per day.

6. In the counter affidavit filed by the second respondent, it is stated that Concessionaire had constructed two pedestrian underpasses at Melmaruvathur Village, as a

precautionary measure for the well being of the villagers and devotees, who visits the Melmaruvathur Temple. The petitioner's wife was not expected to cross the said National Highway in front of Melmaruvathur Temple and she had done on her own risk.

7. In the counter affidavit filed by the 5th respondent, it is stated that the alleged accident had happened to the petitioner's wife, while she was crossing the road abruptly and she touched the open terminal box of the lamp post, neglecting the subway crossing, which is the only way to the Temple of the Melmaruvathur. The street lights in the GST road, Melmaruvathur are maintained by the National Highways Authority of India and the same are all under the control of the National Highways Authority of India and hence, the Tamil Nadu Electricity Board is no way liable and responsible for the accident.

8. It is not in dispute that the petitioner's wife, viz., Chennammal on 28.12.2012, died due to Electrocution. The post-mortem certificate annexed in the typed set of papers shows that the deceased was 50 year old. The petitioner has specifically alleged that the terminal box of the lamp post at the centre median was kept open and it was not closed as alleged by the respondent.

9. On a perusal of the photographs annexed in the typed set of papers, it is seen that the junction box was not closed and it was kept open and the deceased crossed the road, where the signboard was fixed. It may be true that the respondents have constructed two pedestrian underpasses at Melmaruvathur, but the fact remains that the deceased attempted to cross the road where the signboard was fixed. It is to be further seen that the unfortunate incident had taken place at 23.30 hours. So, in my considered opinion, both the 1st respondent and the deceased, were responsible for the accident and it would be appropriate to fix negligence at the ratio of 60 : 40. Identity Card issued by the Tamil Nadu Construction Employees Association would show that the deceased was a member of the Association.

10. According to the petitioner, the deceased was earning a sum of Rs.400/- per day, but no material was produced to establish her income. Considering the facts, notional income of the deceased is fixed at Rs.7,500/- per month and taking note of the age of the petitioner as 60 years, appropriate multiplier would be 7. After deducting 1/3 towards personal income of the deceased, the contribution to the family is taken as Rs.5,000/- per month and by applying multiplier 7, loss of income is arrived at Rs.4,20,000/-. As per the recent decision in the case of National Insurance Company Limited vs. Pranay Sethi and Others, reported in 2017 (13) SCALE12 = MANU/SC/1366/2017, a sum of Rs.70,000/- is awarded towards non-pecuniary damages, and the total compensation amount comes to Rs.4,90,000/- and

after deducting 40% towards contributory negligence, the petitioner would be entitled to get Rs.2,94,000/- as compensation.

11. In view of the above findings, the first respondent is directed to pay compensation of Rs.2,94,000/- (Rupees two lakhs and ninety four thousand only) with 9% interest from the date of accident till the date of payment to petitioner, within a period of six weeks.

12. Accordingly, the writ petition is allowed. No cost.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

pvs

To

- 1.The Chief General Manager,
National Highways Authority of India,
Butt Road, Kathipara, Chennai - 600 016.
- 2.The Project Director,
National Highways Authority of India,
Butt Road, Kathipara, Chennai - 600 016.
- 3.The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Villupuram, 605 602.
- 4.The Chief Engineer,
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore 632 001.
- 5.The Superintending Engineer,
Tamil Nadu Electricity Board,
Kancheepuram 631 501.
- 6.The Executive Engineer,
Tamil Nadu Electricity Board,
Cheyyur, 603 302, Kancheepuram District.

7. The Assistant Executive Engineer,
O & M, Tamil Nadu Electricity Board,
Melmaruvathur 603 319.

8. The Junior Engineer,
O & M, Tamil Nadu Electricity Board,
Melmaruvathur 603 319.

+1 CC to Mr.S.K. Rameshwar, Advocate sr 21331.

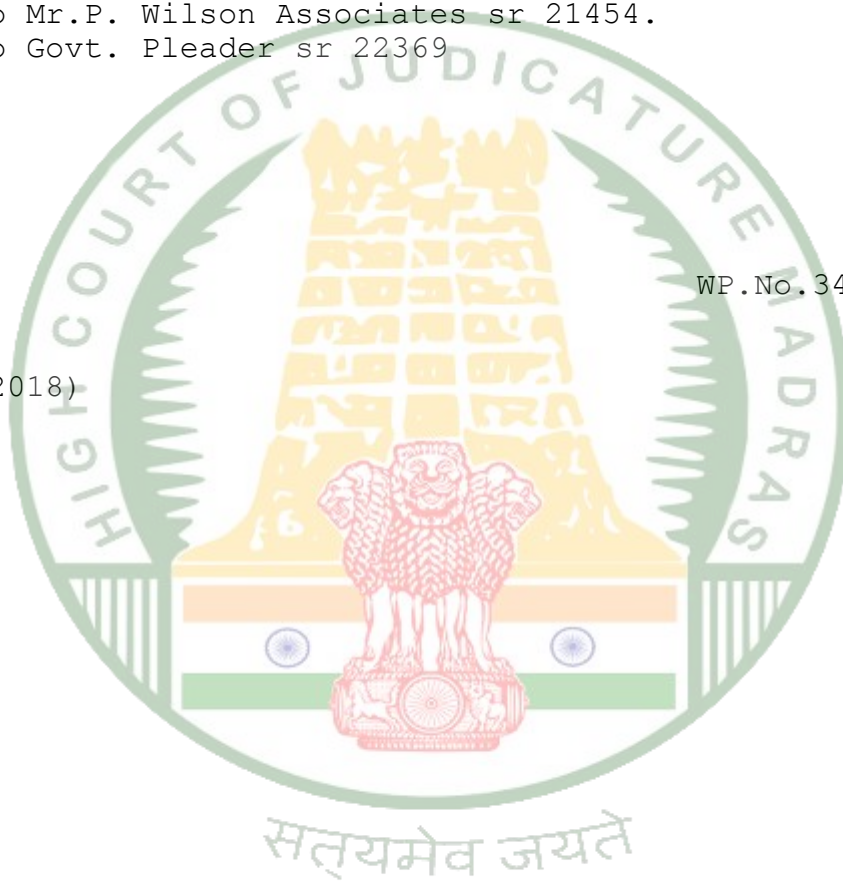
+1 CC to Mr.V. Nicholas, Advocate sr 21372.

+1 CC to Mr.P. Wilson Associates sr 21454.

+1 CC to Govt. Pleader sr 22369

WP.No.34035 of 2013

NM(CO)
SP(04/06/2018)



WEB COPY