



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.927 of 2018

Ramakkal

... Petitioner

-Vs-

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai,
Chennai - 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
K.Pudhur,
Madurai - 625 007.
- 3.The Assistant Executive Engineer,
O/o.The Assistant Executive Engineer Office,
Arasaradi,
Madurai - 625 016.
- 4.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City,
Madurai - 625 002.
- 5.The Inspector of Police,
Karimedu Police Station,
Madurai District.
(Crime No.807 of 2015)

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents No.1 to 3 to pay a sum of Rs.15,00,000/- (Fifteen Lakhs only) by way of compensation for the death of the petitioner's husband (Late) Thangaveeranan, aged 35 years old, due to electrocution within a stipulated time that may be fixed by this Court.

For Petitioner
For R-1 to R-3
For R-4 & R-5

: Mr.R.Karunanidhi
: Mrs.S.Srimathi
: Mr.N.Shanmuga Selvam
Additional Government Pleader

ORDER

The case of the petitioner, as evidenced in the FIR dated 06.09.2015 is that on 06.09.2015, at about 07.30 p.m., when the petitioner's husband was painting his house, the petitioner herein heard him screaming and when she rushed outside the house, she saw that the electricity main wire had snapped and was on her husband, owing to which, he died in the occurrence spot itself. The petitioner's husband was aged about 35 years at the time of occurrence and he is survived by the petitioner herein and his two minor children, aged about 5 and 2 years respectively.

2. According to the petitioner, her late husband was employed as a Mason in a construction field and was earning a sum of Rs.15,000/- per month. Since he was the only breadwinner of the family and the accident had occurred, owing to the negligence on the part of the respondents in not maintaining the electricity lines properly, she is entitled to claim a sum of Rs.15,00,000/- as compensation for herself and her minor children.

3. Mr.R.Karunanidhi, learned counsel appearing for the petitioner submitted that it was only on account of the gross negligence of the respondents that the electricity wire had snapped, resulting in the death of the petitioner's husband. The respondents had failed to provide safety measures to avoid such indiscriminate snapping of wires and therefore, they are solely accountable for the negligence and consequently, are liable to pay the compensation.

4. The learned counsel appearing for the petitioner further submitted that since the petitioner's husband was earning a sum of Rs.15,000/- per month and was aged about 35 years only on the date of his death, the petitioner herein is entitled for a compensation of Rs.15,00,000/-.

5. Mrs.S.Srimathi, learned counsel appearing for the respondents 1 to 3 submitted that the deceased was engaged by his house owner for whitewashing the house on 06.09.2015 and the accident took place during the course of his employment and therefore, the petitioner can claim compensation only under the Workmen's Compensation Act, 1923. The main Electricity Post feeding supply to the petitioner's house was 12 feet away and that the post as well as the main lines have been property maintained.

6. The learned counsel appearing for the respondents 1 to 3 further submitted that the deceased had caught the electricity wire with his left hand, resulting in electrocution and therefore, no negligence can be attributed to these respondents. Even otherwise, the proper remedy for the petitioner would be to make a claim before the Civil Court and the present writ petition is not maintainable.

7. Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the respondents 4 and 5 reiterated the



submissions of the counsel appearing for the respondents 1 to 3 and submitted that pursuant to the occurrence, the fifth respondent had registered the petitioner's complaint in Crime No.807 of 2015 and the investigation is pending.

8. I have given careful consideration to the submissions made by the respective counsel.

9. One of the main contentions raised by the learned counsel appearing for the respondents 1 to 3 is that main pole and the main line are about 12 feet away from the petitioner's house, which are being properly maintained by these respondents and therefore, no liability can be fastened on them for the occurrence, which took place in the service line that enters the petitioner's house.

10. In other words, these respondents intend to indicate that the liability stops with the distributing main line on the pole from which the service line is drawn to the petitioner's house.

11. Section 53 (a) of the Electricity Act, 2003, [hereinafter referred to as "the Act"] empowers the authority to specify the suitable measures for protecting the public from dangers arising from the transmission or distribution or use of electricity supply or installation or maintenance or use of any electric line. It also directs the authority to specify the suitable measures for eliminating or reducing the risks of personal injury to any person with the use of such electricity supply.

12. In consonance with Section 53 of the Act, and under the powers vested with the authority under Section 177 of the Act, the Central Electricity Authority (Measures Relating to Safety and Electricity Supply) Regulations, 2010 (CERC) came to be passed.

13. Regulation 13 of the CERC Regulations prescribes that the supply of electricity shall ensure that the lines belonging to him or under his control, which are on a consumer's premises, are in a safe and fit condition and in all respects fit for supplying electricity and the said regulation reads as follows:

"13. Service lines and apparatus on consumer's premises - (1) The supplier shall ensure that all electric supply lines, wires, fittings and apparatus belonging to him or under his control, which are on a consumer's premises, are in a safe condition and in all respects fit for supplying electricity and the supplier shall take precautions to avoid danger arising on such premises from such supply lines, wires, fittings and apparatus.

(2) Service lines placed by the supplier on the premises of a consumer which are underground or which are accessible shall be so insulated and protected by the supplier as to be secured under



all ordinary conditions against electrical, mechanical, chemical or other injury to the insulation.

(3) The consumer shall, as far as circumstances permit, take precautions for the safe custody of the equipment on his premises belonging to the supplier.

(4) The consumer shall also ensure that the installation under his control is maintained in a safe condition."

14. Rule 29 of the Tamil Nadu Electricity Distribution Code [hereinafter referred to "the Code"] provides for mode in which, the service lines are laid.

15. Under Rule 29 (7) of the Code, the service line once laid shall not be transferred, interfered with or shifted from one place to another except with the permission of the Engineer.

16. Rule 29 (16) states that the work of laying the service line will be taken by the Engineer after agreement on the position of contact of supply and after the intending consumer pays the estimated cost on laying the service line.

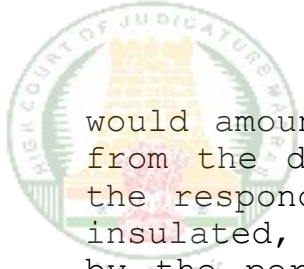
17. Rule 29 (17) lays down that the entire service line will be the property of the licensee and that the consumer will be maintained by the licensee at that cost.

18. Rule 29 (18) entitles the licensee to use the service line for supply of electricity to any other person.

19. On a co-joint reading of the aforesaid provisions, it is seen that the service line, which is drawn from the distributing main to the meter in the consumer's premises, is an exclusive property of the licensee namely, TANGEDCO in view of Rule 30 (17) of the Code, and it is mandated therein that the service line would be maintained by the TANGEDCO.

20. In the instant case, it is not in dispute that the electrocution occurred out of the service line entering inside the petitioner's premises. It is the case of the respondents that the main electricity post is situated 12 feet away from the house of the deceased and that the post as well as the main line are properly maintained. It is the further case that the deceased had caught hold of the live service line and was electrocuted.

21. As stated above, the service line from the distributing main to the consumer's meter is an exclusive property of the licensee in view of Rule 30 (17) of the Code, which is mandated to be maintained by the TANGEDCO. Even assuming that the deceased had caught hold of service line and thereby electrocuted, it can be only concluded that the service line lacked proper insulation, which



would amount to non-maintenance of the wire. When a live wire runs from the distributing main to the meter of a consumer's premises, the respondents are bound to ensure that the said wire is properly insulated, since there is a possibility of such a wire being handled by the persons in the house or even by general public. Since the respondents have taken a stand that the deceased had touched the live wire, it can be only concluded that the service line was not properly maintained or subjected to periodic inspections. As such, it has to be held that the second respondent was responsible for the non-maintenance and hence, liable to pay compensation.

22. This Court had an occasion to deal with this aspect in a judgment reported in (2016) 8 MLJ 691, in the case of R.Kumar vs. Secretary to Government, Electricity Department, Government of TamilNadu, Secretariat, Chennai and Another and while fixing the negligence on the part of the respondents, had observed as follows:

"7: In the case on hand, the live wire, to which, the deceased Victor came into contact, had snapped either due to poorly installed electric pole or lack of proper and periodical maintenance of the same. The respondents do not seem to have taken any precaution to cut down the power supply, when heavy rains and winds were anticipated. I do not find any of the reasonings put forth by the learned counsel for the second respondent in its counter affidavit as well as during his oral submissions to the effect that the accident was due to an "Act of God". On the other hand, the unfortunate incident is attributable due to the negligence on the part of the concerned officials of the second respondent."

23. The learned Standing Counsel appearing for the respondents 1 to 3 also submitted that the proper redressal forum for the petitioner would be before a Civil Court and the present Writ Petition is not maintainable. In the aforesaid Judgment in the case of R.Kumar [cited supra], I had an occasion to deal with this aspect also holding that when the facts are not in dispute, the legal heirs of the victims can claim compensation in the writ proceedings. The relevant portion of the said order as follows:

"8. The, next question that arises for consideration is as to whether the proper recourse or remedy is before the civil Court. It is not in dispute that the petitioner's son had died due to electrocution of snapped wire. The petitioner's son was aged about 27 years at the time of his death and he was a Plumber by profession. Even this has not been disputed by the respondents in



the counter affidavit. In such circumstances, the respondents cannot contend that there are mixed question of facts, when the basic facts have already been answered through the pleadings in this writ petition. It is well settled principle of law that if facts are not in dispute, the legal heirs of the victims can claim compensation in writ proceedings. Since the cause of the death is not disputed and it is not an "Act of God" which led to the death of the petitioner's son, the respondents cannot escape the liability of paying compensation to the petitioner. Hence, the petitioner need not approach the civil Court for claiming the compensation and that this Court can exercise its power under Article 226 of the Constitution of India and can entertain a writ petition of this kind.

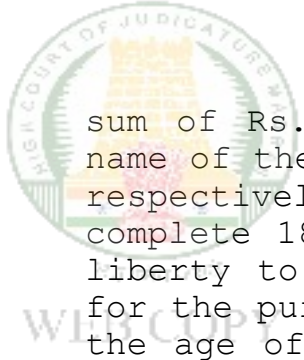
9. The learned counsel for the petitioner would also rely upon the Judgment of this Court in K.Sambath @ Chidambaranathan v. I.Superintendent Engineer-I, Puducherry Electricity Board, Uppalam, Puducherry and two Others W.P. No.17691 of 2009, dated 02.01.2013, wherein, it is held that the respondents are liable to pay compensation in the writ petition, when there are no factual disputes with regard to the manner of death."

24. The writ petitioner has sought for a compensation of Rs.15,00,000/- for the death of her husband. The claim of the petitioner that her late husband was aged about 35 years during the time of electrocution has not been disputed by the respondents herein, likewise, that he was undertaking construction work as a mason is also not denied.

25. It is seen that the deceased was survived by the petitioner and two children aged about 5 and 2 years respectively. But for the accident, the petitioner's husband could have lived for atleast another twenty years.

26. Considering the nature of the profession that the deceased was carrying on prior to his death and taking into account the loss of consortium to the petitioner herein and the loss of love and affection to the petitioner and the two minor children, a sum of Rs.5,00,000/- would be reasonable compensation to the family of the deceased.

27. In the result, the second respondent is directed to pay a sum of Rs.3,00,000/- [Rupees Three Lakhs only] as compensation directly to the petitioner herein and Rs.1,00,000/- [Rupees One Lakh only] each to her minor children, namely, Parasuraman and Shanthimathi; The second respondent, shall make the payment of Rs.3,00,000/- directly to the petitioner herein and shall deposit a



sum of Rs.1,00,000/- each in a Fixed Deposit Bank Account in the name of the two minor children, namely, Parasuraman and Shanthimathi respectively, in a Nationalised Bank, till each of the children complete 18 years of age. On such deposit, the petitioner is given liberty to withdraw the accumulated interest on the Fixed Deposits for the purpose of maintaining the two minor children. On attaining the age of majority, the two minor children will be at liberty to withdraw their respective amounts from the fixed deposit accounts. The Writ Petition stands allowed accordingly. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai - 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
K.Pudhur, Madurai - 625 007.
- 3.The Assistant Executive Engineer,
O/o.The Assistant Executive Engineer Office,
Arasaradi, Madurai - 625 016.
- 4.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City, Madurai - 625 002.
- 5.The Inspector of Police,
Karimedu Police Station,
Madurai District.

+1cc to M/S.S.M.S.Johnny Basha, Advocate SR.No. 71911
+1cc to M/S.R.Karunanidhi, Advocate SR.No. 72003

W.P. (MD) No.927 of 2018

09.07.2018

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