



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

WEB COPY

W.P.(MD) No.195 of 2017

R.Chellappa

... 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 District-625 007

3.The Executive Engineer
Madurai Electricity Distribution Circle
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
S.S.Colony, Madurai
Madurai District

4.The Inspector of Police
Austinpatti Police Station
Madurai District
(Crime No.391 of 2016)

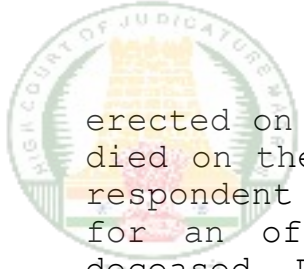
... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to pay a sum of Rs.10,00,000/- (Rupees ten lakhs only) by way of compensation for the death of the petitioner's wife (Late) Pandiyammal, aged 52 years, due to electrocution.

For Petitioner	:	Mr.R.Karunanidhi
For Respondents	:	Mrs.Srimathy
		Standing Counsel for R1 to R3
		Mr.J.Gunaseelan Muthiah
		Addl. Govt. Pleader for R4

O R D E R

The petitioner is the husband of Late.Pandiyammal. The case of the petitioner is that on 17.07.2016, at about 05.00 a.m., the petitioner's wife, while walking at Chetti Street, Vilachery, Madurai, during rain, accidentally slipped and lost her balance and while trying to avoid falling down, she held an electric iron pole



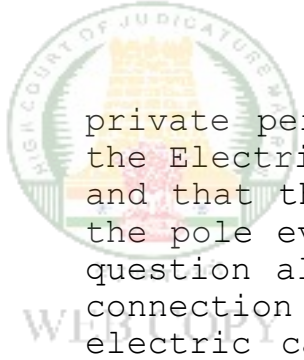
erected on Pichaimani's land owing to which she was electrocuted and died on the same day. With regard to the said incident, the fourth respondent - Police had registered a case in Crime No.391 of 2016, for an offence under Section 174 Cr.P.C., on 17.07.2016. The deceased Pandiyammal is survived by her husband, who is the petitioner herein and two children. Since the aforesaid incident had occurred due to electrocution, the respondents 1 to 3 - TANGEDCO are collectively liable to pay compensation to the petitioner.

2. The learned counsel for the petitioner submitted that the iron pole through which electrocution occurred was installed by the respondents 1 to 3 herein, which is evidenced from the seizure mahazar. Even otherwise, the iron pole also facilitates electricity supply to the nearby Temple and as such, it was the respondents 1 to 3 - TANGEDCO, who ought to have maintained the iron pole and ensure that electricity does not pass through the iron pole even during the times of rain. The learned counsel for the petitioner also relied upon the rough sketch prepared by the Inspector of Police, which evidences that two iron pipes through which, electric cables from the main post at Vilachery Main Road were taken. As such, it is his submission that the respondents 1 to 3 - TANGEDCO are collectively liable for the incident and since the deceased was aged about 52 years and survived by her husband and two children, a sum of Rs.10,00,000/- is reasonable towards compensation.

3. Mrs.Srimathy, learned standing counsel for the respondents 1 to 3 - TANGEDCO, on the other hand, submitted that the G.I.Pipeline through which electrocution occurred belonged to a private person, namely, Periya Karuppan and since the pipeline was erected in his land, the respondents 1 to 3 are not liable for any compensation. If at all any compensation is liable to be granted, it would only be the private person, namely, Periya Karuppan, who can be held responsible for the negligence. The learned standing counsel also submitted that the said pipeline also facilitates electricity supply to the other service connection bearing No.144-061-661. It is her further submission that incase no fault liability is attributed to the respondents 1 to 3 herein, the compensation claimed by the petitioner is exorbitant.

4. I have given careful consideration to the submissions made by the respective learned counsels.

5. The claim of the respondents 1 to 3 that the pipeline was erected by a private person is not backed with any records. On the other hand, the seizure mahazar prepared by the Inspector of Police investigating the crime clearly states that the 1 ½ Inch iron pipe through which electric cables were connected belonged to TANGEDCO. The rough sketch annexed to the seizure mahazar also evidences two 1 ½ Inch iron pipes, which facilitate electricity supply from the main pole at Vilachery Main Road to the place of occurrence. As such, the claim that the iron pole in question does not belong to TANGEDCO is baseless. Even assuming that the iron pole was erected by a



private person in a private land, it would be the bounden duty of the Electricity Board to ensure that the pole is maintained properly and that there is no pilferage or conduction of electricity through the pole even during rough weather. The very fact that the pole in question also facilitates electricity supply to an adjacent service connection would go to prove that TANGEDCO has vital role in passing electric cables through the iron pole in question. I am further unable to comprehend as to how a private person can pull electric cables from the main pole at Vilacheri Main Road when such a work is entirely within the domain of TANGEDCO. Further, there is nothing on record to show that TANGEDCO had initiated actions against the person for pulling electric cable from the main pole to a private land and as such, it can only be assumed that pulling of electric cables from the main pole to the pole in question was within the knowledge of the respondents 1 to 3. As such, they alone can be held liable for not maintaining the pole in question properly, amounting to wilful negligence.

6. As such, the petitioner would be entitled for a compensation. At this juncture, it is seen that the deceased was 52 years of age and there is nothing on record to show that she had an independent source of income. Consequently, there may not be any loss of income, owing to the death, to the family members. Nevertheless, by taking into account the loss of companionship as well as love and affection and also the fact that the deceased was only aged about 52 years and she could have lived for at least ten more years, it would be appropriate to arrive at a compensation of Rs.7,00,000/- (Rupees seven lakhs only).

7. In the result, the writ petition stands allowed. The respondents 1 to 3 are directed to pay a compensation of Rs.7,00,000/- (Rupees seven lakhs only) to the legal heirs of the deceased Pandiyammal, on production of a valid legal heirship certificate, within a period of four weeks from the date of receipt of a copy of this order. In case there is any default, the respondents 1 to 3 shall be liable to pay interest at the rate of 9% per annum on the sum of Rs.7,00,000/- commencing from the expiry of the aforesaid period of four weeks. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To:

1. The Chairman cum Managing Director
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<https://hcservices.courts.gov.in/hcservices/>
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+1cc to M/S.R.Karunanidhi, Advocate SR.No. 60967

+1cc to M/S.S.M.S.Johnny Basha, Advocate SR.No. 60934

W.P.(MD) No.195 of 2017
12.04.2018

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JM/SV MMS/SAR 1/27.04.2018/4P/7C