

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.16293 of 2008

K.Chinna Muniappa

... Petitioner

Vs

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

2.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to pay the petitioner a sum of Rs.10,00,000/- towards compensation with 18% interest from the date of the incident till the date of realization from the death of his son Chandrasekaran having died on 22.01.2008 on account of electrocution by considering the petitioner's representation dated 16.02.2008 made by him to the first respondent.

For petitioner : Mr.G.Ananda Kumar

For Respondents : Mr.M.Varunkumar
Standing Counsel

ORDER

The petitioner, whose son died on 22.01.2008 due to electrocution, has filed this writ petition seeking for issuance of a writ of mandamus to direct the respondents to pay him a sum of Rs.10,00,000/- towards compensation with 18% interest from the date of the incident till the date of realization, by considering his representation dated 16.02.2008.

2. Heard the learned counsel appearing on either side and perused the materials available before this Court.

3. According to the petitioner, on 22.01.2008, while his son, aged about 14 years, was going to the School, near Panchayat Road leading to Koda Sathanpalli, he was electrocuted by the livewires, which fell on him due to damage and non-maintenance of the wires, and that his son also died on the spot. Immediately after the accident, a case was registered in FIR No.17/2008, dated 22.01.2008 by the Sub-Inspector of Perigai Police Station, Krishnagiri District. It is stated that although snapping of the livewires and smoke blown out from the livewires were brought to the notice of the respondents, they had neither stopped the passing of electricity through the

may be directed to pay a compensation to the tune of Rs.10,00,000/- towards the death of his son.

4. From the above said facts and circumstances of the case and also on perusal of the First Information Report dated 22.01.2008 and Postmortem certificate dated 22.01.2008, it is clear that the death had occurred due to the negligence on the part of the Electricity Board as they have not maintained the livewires properly and fell down causing electrocution and therefore, in my view, the Board cannot escape from the liability of paying compensation.

5. With regard to awarding of compensation, there is no codified law for arriving at quantum of compensation in cases of these type of cases. The enactments like the Motor Vehicles Act and the Workmen's Compensation Act, may be applied for arriving at a just compensation. In the case on hand, at the time of death, the petitioner's son was aged about 14 years as could be seen from the postmortem certificate issued by the Civil Assistant Surgeon, Government Hospital, Hosur, on 22.01.2008. Therefore, since the deceased was a student, this Court, by following the recent judgment of the Hon'ble Division Bench of this Court in Andal and others Vs. Avinav Kannan and others [2019 (1) TN MAC 54 (DB)] is inclined to fix a sum of Rs.11,000/- per month towards notional income. For better appreciation, it is relevant to extract Paragraph No.14 of the said judgment, which is quoted below:-

"14. As per the above said index, the Cost of Inflation Index for the year 2007-2008 is 129 and for the year 2013-2014 will be 220. Now, we determine the Notional Income of the deceased in the manner stated below:-

The Notional Income fixed by the Cost of Inflation Index
Hon'ble Supreme Court of India X for the year 2013-2014
for the Vegetable vendor i.e.,
Rs.6500/- during the year 2007-2008

Cost of Inflation Index for the year 2007-2008

Therefore, Income of the deceased is 6500×220
----- = Rs.11,085/-
129

The Notional Income of the deceased after applying Inflation Index, will be a sum of Rs.11,085/-. Hence, we re-fix the Notional Income of the deceased as Rs.11,000/- from Rs.6,500/-. Therefore, we hold that the Tribunal committed error in fixing the Notional Income of the deceased as stated above."

By following the aforesaid judgment, the notional income of the deceased is fixed at Rs.11,000/- and after adding 25% (11000 x 25% = 2750) i.e. Rs.2,750/- towards future prospects, the total monthly income of the deceased works out to Rs.13,750/- (11000 + 2750).

6. Besides, by following the ratio laid down by the Apex Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another, reported in 2009 (6) SCC 121,

Loss of love and affection	-- Rs.50,000/-
Pain and sufferings	-- Rs.50,000/-
Funeral expenses	-- Rs.25,000/-

7. In total, this Court hereby awards a sum of Rs.13,62,500/- as total compensation. The respondents/Electricity Board are hereby directed to pay the said amount as compensation to the petitioner, with interest at 8% per annum from the date of accident till the date of payment, within a period of six weeks from the date of receipt of a copy of this order.

8. In fine, the writ petition is disposed of in terms of the above said directions. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.
- 2.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Dharmapuri.

+1cc to M/S.M.Varunkumar, Advocate Sr.14553
+1cc to M/S.G.Anandakumar, Advocate Sr.14332

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