

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.36979 of 2007

Raja Basha

... Petitioner

Vs

1. The District Collector,
Singaravelar Maligai,
Chennai District.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.
3. The Assistant Engineer (O&M),
Tamil Nadu Electricity Board,
H-Block, 11th Main Road,
Anna Nagar, Chennai-40.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay compensation of Rs.12,00,000/- (Rupees Twelve Lakhs Only) to the petitioner herein.

For Petitioner : Mr.S.Namo Narayanan

For Respondents: Mr.K.Ravikumar,
AGP for R1
Mr.P.R.Dhilipkumar,
Standing Counsel for R2 and 3

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to pay compensation of Rs.12,00,000/- (Rupees Twelve Lakhs Only) to the petitioner herein for the death of his eldest son Rahmat Ali due to electrocution.

2. Learned Counsel appearing for the petitioner submitted that the petitioner is the father of the victim, namely, Rahmat Ali, who was electrocuted while he was working at a Mutton Stall owned by one Nazimuddin at No.46, Jawaharlal Nehru Road,

Thirumangalam, Chennai-40 on a daily wage of Rs.100/- in addition to the boarding and lodging being provided by his employer Nazimuddin. The deceased was assisting his employer in chopping and cleaning the meat and also used to take the goats for grazing as part of his job. Unfortunately, on the fateful day, i.e. on 29.10.2006, while he was walking along goats for grazing at Pillaiyar Koil Street, Sathya Sai Nagar, Thirumangalam, Chennai-40, exactly, at a spot in front of Kumar Packaging Company, he stepped on a live electric cable which fell down and lying on the ground. Suddenly, he was thrown out, as a result, he was immediately rushed to Kilpauk Medical College Hospital, Chennai, where he was declared dead due to electrocution.

3. The learned Counsel for the petitioner further submitted that a Post-mortem Certificate No.1975/06 dated 30.10.2006 was issued by Professor Dr.C.Manohar in which it has been stated that his opinion as to cause of death is 'Electrocution'. Even, an F.I.R. was registered by V.5 Thirumangalam Police Station in Crime No.640/2006 under Section 174 of Cr.P.C. and after investigation, the Inspector of Police has also filed a report on 30.10.2006 clearly stating the apparent cause of death as Electrocution. Therefore, when the F.I.R. registered by V5 Thirumangal Police Station in Crime No.640/2006 clearly shows the cause of death of the son of the petitioner as Electrocution and again when the Postmortem Certificate No.1975/06 dated 30.10.2006 also clearly shows that the cause of the death of the deceased was due to electrocution, the son of the petitioner, who was eking out his livelihood in the mutton stall owned by one Nazimuddin has unfortunately lost his life, only due to the careless attitude shown by the staff of the Tamil Nadu Electricity Board, namely, the respondents 2 and 3 herein. Had they maintained the electricity wires properly and periodically, it would not have fallen on the ground and caused the death of the petitioner's eldest son. In view of the sudden demise of his eldest son, the petitioner, who is a poor farm labour, ploughing the fields of the land owners and tilling the soil and also doing the menial labour, finds it hard to make both ends meet, as he has lost the source of income from his eldest son-deceased for which the respondents 2 and 3 should be vicariously liable and they should be made to pay a suitable and just compensation of Rs.12,00,000/-.

4. Continuing his arguments, the learned Counsel for the petitioner further submitted that as the deceased died at the age of 18 years due to electrocution, by following the ratio laid down by this Court as well as by the Supreme Court in Motor Accidents Claims Cases, for deriving the income of the deceased per year, his notional income has to be taken as Rs.10,000/- p.m. and after deducting 50% for his personal expenses as the

deceased was a bachelor, if the multiplier of 18 is adopted, the loss of income per year would come to Rs.10,80,000/-. In addition thereto, as held by the Supreme Court in 2017 (2) TN MAC 609 (SC) (National Insurance Company Limited vs. Pranay Sethi and others), if 40% of annual income of the deceased is calculated, the Future Prospectus would come to Rs.4,32,000/-. Likewise, a minimum of Rs.15,000/- towards Loss of Estate, a sum of Rs.5,000/- towards Transportation Charges, a sum of Rs.50,000/- towards Love and Affection and towards funeral expenses, a sum of Rs.15,000/- have to be taken into account for awarding compensation, it is pleaded.

5. The learned Counsel for the petitioner also submitted that in similar circumstances, in general, the State Government also provides compensation at the rate of Rs.3,00,000/- This also has not been paid by the Collector. Therefore, that amount also should be directed to be paid, he pleaded.

6. A counter affidavit has been filed by the 3rd respondent, namely, the Assistant Engineer (O&M), Tamil Nadu Electricity Board, Anna Nagar, Chennai-40.

7. Mr.P.R.Dhilip Kumar, learned Standing Counsel for the respondents 2 and 3 submitted that the writ petition is bad for non-joinder of M/s.Kumar Packaging Company which is located on the place of occurrence i.e. No.2, Pilliyar Koil Street, Sathya Sai Nagar, Thirumangalam, Chennai-40, who is the root cause of the accident. Moreover, the Assistant Engineer/O&M/TNEB, Thirumangalam was not examined by the police. On verification with the local people, it was found that there was a heavy rain on the relevant day and the victim was walking in the road along with goats for grazing at Pilliyar Koil Street, Sathya Sai Nagar, Thirumangalam at about 5.00 p.m. on 29.10.2006 and because of the sudden pour, the victim rushed to the nearby place inside the Kumar Packaging Company where a tube light was installed in a wooden pole and due to the leakage of electricity inside the premises of the shop and also due to the accidental touch made by the deceased, the electrocution took place. Therefore, the Tamil Nadu Electricity Board cannot be held responsible for the accident. Even after, if there is any negligence, it should be fixed only on the owner of M/s.Kumar Packaging Company who has unauthorisedly installed a tube light in the temporary wooden pole in front of the shop. But the petitioner has not chosen to implead him to claim the compensation. Therefore, there cannot be any negligence attributed towards the officials of the Tamil Nadu Electricity Board, namely, the respondents 2 and 3. Moreover, in view of the disputed question of facts including the manner of accident, the proper remedy to the petitioner is to approach only a competent civil court.

8. Again answering to the lack of negligence on the part of the respondents 2 and 3 that the cause of death was due to improper service effected to J.Shivaji of Raja Water Service, the learned Standing Counsel for the respondents 2 and 3 submitted that the said service connection was effected only on 2.12.2006, but the alleged electrocution death was on 29.10.2006. Hence, the whole electrocution death is disputed and whether the deceased Rahmath Ali died due to electrocution or not is a question of fact which cannot be decided in a Writ Petition. Hence, for all these reasons, the learned Standing Counsel for the respondents 2 and 3 seeks to dismiss the present Writ Petition.

9. Heard the learned Counsel on either side.

10. This Court has been entertaining the writ petitions filed under Article 226 of the Constitution of India seeking compensation for loss of life occurred due to electrocution. Therefore, the present Writ Petition is maintainable. The petitioner, who is a poor farm labour, ploughing the fields of the land owners, tilling the soil, also doing the menial labour, finds hard to make both ends meet. He has got three children. His eldest son Rahmat Ali and he was employed in a Mutton Stall owned by one Nazimuddin at No.46, Jawaharlal Nehru Road, Thirumangalam, Chennai-40, on a daily wage of Rs.100/- in addition to the boarding and lodging being provided by his employer Nazimuddin and the deceased was assisting his employer in chopping and cleaning the meat and also used to take the goats for grazing as part of his job. Unfortunately, on the fateful day, i.e. on 29.10.2006, he was walking along with goats for grazing at Pillaiyar Koil Street, Sathya Sai Nagar, Thirumangalam, Chennai-40 and exactly, at a spot in front of Kumar Packaging Company, he stepped on a live electric cable lying on the ground and he was electrocuted. Immediately, he was rushed to the Kilpauk Medical College Hospital, but he was declared dead due to electrocution. A Post-mortem Certificate No.1975/06 dated 30.10.2006 was issued by Professor Dr.C.Manohar which clearly shows that the cause of death of the deceased is due to Electrocution. Even, the F.I.R. registered by V.5 Thirumangalam Police Station in Crime No.640/2006 under Section 174 of Cr.P.C. clearly shows that the apparent cause of death was electrocution by stepping on a live electric cable wire at Pillaiyar Koil Street, Sathya Sai Nagar. It goes without saying that due to irregular maintenance of the electric wires by the respondents 2 and 3, the death of the deceased was happened.

11. Once the cause of death has been established, the respondents 2 and 3 are made vicariously liable. For calculating the compensation amount, the guidelines stipulated in the judgment of the Honourable Apex Court in Sarla Verma and

others vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC) and in yet another reported judgment of the Supreme Court in 2017 (2) TN MAC 609 (SC) (National Insurance Company Limited vs. Pranay Sethi and others), have to be followed. The said decisions stipulate that if the deceased is at the age group between 15 to 20 and if there is no proof produced by the deceased family, it can be safely arrived at Rs.10,000/- as his notional income and the multiplier would be 18. Further deducting 50% as the deceased was a bachelor, the loss of income per year would come to Rs.10,80,000/- and again 40% is added with his annual income, his future prospects would come to Rs.4,32,000/-. Likewise, a minimum of Rs.15,000/- towards Loss of Estate, a sum of Rs.5,000/- towards Transportation Charges, a sum of Rs.50,000/- towards Love and Affection and a sum of Rs.15,000/- towards his funeral charges are awarded as tabulated here under :

Sl.No.	Description of Head	Amount
1.	Loss of income (Notional Income Rs.10,000/- p.m. x Deduction (bachelor) @ 50% i.e. Rs.5,000/- p.m. - Income per year : 5000 x 12 = Rs.60,000/- x multiplier 18)	Rs.10,80,000/-
2.	Future Prospectus (40% to be added to loss of income i.e. 40/100 x 10,80,000)	Rs. 4,32,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Transportation Charges	Rs. 5,000/-
5.	Loss of love and affection	Rs. 50,000/-
6.	Funeral Expension	Rs. 15,000/-
	Total	Rs. 15,97,000/-

Thus, the total compensation would come to Rs.15,97,000/-.

12. Therefore, this Court directs the respondents 2 and 3 to pay a sum of Rs.15,97,000/- (Rupees Fifteen Lakhs Ninety Seven Thousand Only) to the petitioner with interest at the rate of 8% p.a. from the date of petition till the date of realisation, within a period of four weeks from the date of receipt of a copy of this Order.

13. The Writ Petition is disposed of accordingly. No costs.

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Singaravelar Maligai,
Chennai District.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.
3. The Assistant Engineer (O&M),
Tamil Nadu Electricity Board,
H-Block, 11th Main Road,
Anna Nagar, Chennai-40.

+1 CC to Government Pleader sr 10823.
+1 CC to Mr.P.R.Dhilip Kumar, Advocate sr 9981.
+1 CC to Mr.S.Namo Narayanan, Advocate sr 9905.

W.P.No.36979 of 2007

SP(04/03/2019)

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