

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.NO.20632 of 2008
and M.P.No.1 of 2008

I. Muniapushpam

...Petitioner

Vs

1.The Chairman
Tamil Nadu Electricity Board
No.144, Anna Salai, Chennai 600 002.

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

3.The Assistant Engineer, O&M
Tamil Nadu Electricity Board
Medavakkam, Chennai.

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pay the petitioner a sum of Rs.10,00,000/- towards the compensation with 18% interest from the date of the incident till the date of realization for the death of her husband P.Ayyarappan having died on 16.11.2007 on account of electrocution, by considering the petitioner's representation dated 05.05.2008 made by her to the first respondent within a time frame as fixed by this Court.

For Petitioner : Mr.G.Ananda Kumar

For Respondents: Mr. S.K.Raameshuwar,
Standing Counsel for TNEB

O R D E R

The petitioner, whose husband died on 16.11.2007 due to electrocution, has filed this writ petition seeking for issuance of a writ of mandamus to direct the respondents to pay her 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 her representation dated 05.05.2008.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. According to the petitioner, her husband Ayyarappan was aged about 40 years, and was working in a timber powder shop, earning a monthly salary of Rs.4,500/- per month. On 16.11.2007, when her husband went to the open field to answer his nature's call, he was electrocuted by the live wires, which fell on him, due to damage and non-maintenance of the wires, and her husband died on the spot. Immediately, after the accident, a case was registered in FIR No.1729/2007 dated 16.11.2007 by the Sub Inspector of Police, Pallikkaranai Police Station. It is stated that although snapping of the live wires and smoke blown out from the live wires were brought to the notice of the respondents, they had neither stopped the passing of electricity through the damaged wires nor taken any steps to restore the same into a normal position. Therefore, it is pleaded, in view such negligence on the part of the respondent electricity board, the petitioner's husband had lost his life. It is also further stated that, had the respondent Board maintained the electricity live wires properly, the ill fated accident would have been averted. Hence, the respondents may be directed to pay a compensation to the tune of Rs.10,00,000/- towards the death of the petitioner's husband.

4. From the above facts and circumstances of the case and also on a perusal of the First Information Report dated 16.11.2007 and the Postmortem certificate dated 16.11.2007, it is clear that the death had occurred due to electrocution. Even in the counter affidavit filed by the respondents, it is stated that the live wires were lying on the ground for nearly three days and it was also brought to the notice of the authorities of the Electricity Board. Hence, 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 live wires properly and it fell down causing electrocution and therefore, in my view, the Board cannot escape the liability of paying compensation.

5. With regard to the awarding of compensation, there is no codified law for arriving at quantum of compensation in cases of these types. Since the petitioner's husband was working in a timber powder shop at the time of death, earning a monthly salary of Rs.4500/-, his entire family consisting of his wife and four sons, would have suffered great hardship due to his death. Although the postmortem report indicates that the age of the petitioner was 57 years, the death certificate shows that

the deceased was only aged about 40 years. However, the pass book issued by the Tamilnadu Manual Workers Social Security and Welfare Board shows the date of birth of the deceased Ayyarappan was 01.07.1967. Therefore, on the basis of the said pass book, the age of the deceased is taken as 40 years. In the recent judgment of the Honourable Division Bench of this Court in Andal and Others Vs. Abhinav Kannan and others (2019) (1) TN MAC 54 (DB), this Court was 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 2007-08 is 129 and for the year 2013-14 will be 220. Now, we determine the Notional Income of the deceased in the manner stated below.

The Notional income fixed by X	Cost of Inflation
the Hon'ble Supreme Court of	Index for the year
India for the Vegetable Vendor	2013-14
Rs.6500/- during the year 2007-08	

Cost of Inflation Index for the year 2007-08

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

The Notional Income of the deceased after applying the 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."

6. 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) ie., Rs.2,750/- towards future prospects, the total monthly income of the deceased works out to Rs.13,750/- (11000 + 2750).

7. 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, this Court hereby fixes multiplier at 15 and as the deceased was a married person at the time of death, after deducting 1/3rd of his income (13750-4585) towards personal expenses, this Court hereby

awards a sum of Rs.16,49,700/- (9165x15x12) towards loss of dependency. Further, this Court also hereby awards various compensation under the following heads.

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

8. In total, this Court hereby awards a sum of Rs.17,74,700/- 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.

9. In fine, the writ petition is disposed of in terms of the above said directions. No Costs. M.P.No.1 of 2008 is closed.

KST

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman
Tamil Nadu Electricity Board
No.144, Anna Salai, Chennai 600 002.
- 2.The Superintending Engineer
Chennai Electricity Distribution Circle
South, Tamil Nadu Electricity Board
Chennai.
- 3.The Assistant Engineer, O&M
Tamil Nadu Electricity Board
Medavakkam, Chennai.

+1cc to Mr.G.Ananda Kumar, Advocate, SR.No.25793
+1cc to Mr.S.K.Raameshuwar, Advocate, vide SR.No.26531

W.P.No.20632 of 2008

Kak(07/05/2019)