

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.10687 of 2018

Maheswari

.. Petitioner

Vs

- 1.The District Collector,
Thiruvarur District,
Thiruvarur.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.73-C, Durgalaya Road,
Thiruvarur.
- 3.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Thiruvarur.
- 4.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Thiruvarur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to pay to the petitioner a sum of Rs.7,00,000/- with interest being the compensation payable to the petitioner for the death of the petitioner's husband who died of electrocution due to the negligence of the respondents.

For petitioner : Mr.T.Srinivasaraghavan
For R1 : Mr.K.Ravikumar, AGP
For R2 to R4 : Mr.P.Gunaraj, standing counsel

ORDER

The petitioner, whose husband died on 24.06.2017 due to electrocution, has filed this writ petition seeking for issuance of a writ of mandamus to direct the respondents to pay a sum of Rs.7,00,000/- towards compensation.

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

3. According to the petitioner, on 24.06.2017, while her husband, aged about 37 years, after finishing his agricultural work, was taking bath in the backyard of his house, he came in contact with the overhead three phase live wires and that has caused the death of her husband. Immediately after the accident, a case was registered in Cr.No.185 of 2017 on the file of Tiruvarur Taluk Police Station. It is also stated that the overhead three phase wires near her house are running very low and close to palmyrah tree and therefore, although the petitioner and her husband approached the authorities, they have never rectified such defects. Hence, it is pleaded, in view of such negligence on the part of the respondents Electricity Board, the petitioner's husband has lost his life, that too, at the age of 37 years leaving behind her and two minor daughters. It is also further stated that had the respondents Board maintained the electricity livewires properly, the ill-fated accident would have been averted. Hence, the respondents may be directed to pay a compensation to the tune of Rs.7,00,000/- towards the death of her husband.

4. From the above said facts and circumstances of the case and also on perusal of the First Information Report dated 24.06.2017 and Postmortem certificate dated 25.06.2017, 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, therefore, in my considered 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 husband was aged about 37 years as could be seen from the postmortem certificate issued by the Assistant Surgeon, Government Tiruvarur Medical College Hospital, Tiruvarur, on 25.06.2017. Therefore, since the deceased was a Agricultural coolie, 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 Hon'ble Supreme Court of India 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, 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/-

7. 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.

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

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Thiruvavur District,
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Thiruvavur.

+1 CC to Mr.T.Srinivasaraghavan, Advocate sr 20376.

+1 CC to The Govt. Pleader sr 20915.

+1 CC to Mr.P.Gunaraj, Advocate sr 20311.

सत्यमेव जयते

W.P.No.10687 of 2018

EV(CO)
SP(03/04/2019)

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