

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.25674 of 2016

Subbulakshmi

.. Petitioner

Vs

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

2.The Superintending Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Namakkal Electricity Distribution Circle,
Namakkal Taluk and District.

3.The Junior Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Namakkal Electricity Distribution Circle,
Puduchatram, Namakkal Taluk,
Namakkal District.

4.Mr.Ayyavu, Mr.Chinnaian

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 to 3 to pay the petitioner a sum of Rs.15,00,000/- towards damages with interest at the rate of 12% per annum from the date of accident i.e. 24.04.2012.

For petitioner : Mr.P.Chandrasekar

For R1 to R3 : Mr.S.K.Raameshwar,
Standing Counsel

For R4 : No Appearance

ORDER

The petitioner, whose son died on 24.04.2012 due to electrocution, has filed this writ petition seeking for issuance

of a writ of mandamus to direct the respondents 1 to 3 / Electricity Board to pay a sum of Rs.15,00,000/- towards damages with interests at the rate of 12% per annum from the date of the accident i.e., 24.04.2012.

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

3. According to the petitioner, on 24.04.2012, while her son, aged about 21 years, coming to her house with goats from Vellaian Kadu to S.Nattramangalam, near Angamuthu Chettiar land, he came in contact with snapped over-head live electric wire, as a result of the same, he was burnt alive and died on the spot. Immediately after the accident, Puduchatram Police had registered a case in Cr.No.208/2012 under Section 1714 of the Criminal Procedure Code and investigating the case. It is stated that since the over-head electric wires were pasted with many pieces and that poles laid therein also were not pasted with a sticker stating 'danger', several representations have been made, but, no steps have been taken by the respondents Electricity Board, therefore, in view of such negligence on the part of the respondents Electricity Board, the petitioner's son has lost his life, that too, at the age of 21 years. It is also further stated that had the respondents Board maintained the electricity poles and live electric 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.15,00,000/- towards the death of her son.

4. From the above said facts and circumstances of the case and also on perusal of the First Information Report and Postmortem certificate, it is clear that the death was due to electrocution on the part of the negligence of the Electricity Board 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 21 years as could be seen from the postmortem certificate issued by the Civil Assistant Surgeon on 25.04.2012. Therefore, since the deceased was a daily wager, 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 $6500 \times \frac{220}{129} = \text{Rs.}11,085/-$

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% ($11000 \times 25\% = 2750$) 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 18 and as the deceased was a bachelor at the time of death, after deducting 50% of his income ($13750 - 6875$) towards personal expenses, this Court hereby awards a sum of Rs.14,85,000/- ($6875 \times 18 \times 12$) 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.16,10,000/- 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 three months 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.

rkm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board (TANGEDCO),
Anna Salai, Chennai - 2.
2. The Superintending Engineer,
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Namakkal District.

+1cc to Mr.S.K.Rameshuwar, Advocate, Sr.No.8230

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pm(CO)
kak(05/03/2019)

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