

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.9766 of 2015
and
M.P.No.1 of 2015

P.Priya

... Petitioner

Vs

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

2.The Chief Superintendent Engineer,
Tamil Nadu Electricity Board,
Villupuram,
Villupuram District.

3.The Superintendent Engineer,
Tamil Nadu Electricity Board,
Kallakurichi,
Villupuram District.

4.The Assistant Engineer,
Tamil Nadu Electricity Board,
Thirukkoyilur Taluk,
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay compensation to the negligent act of the 4th respondent due to which the petitioner's husband was electrocuted.

For Petitioner : Mr.E.Sathiyaraj

For Respondents : Mr.M.Varun Kumar,
Standing Counsel

O R D E R

The petitioner seeks for a Mandamus, directing the respondents to pay compensation to the negligent act of the 4th

respondent due to which the petitioner's husband was electrocuted.

2. The case of the petitioner is as follows:

Petitioner's husband was an agriculturist and they have two minor children and aged in-laws. On 27.05.2014, at about 05.30 A.M, the petitioner's husband had gone to their agricultural land for the purpose of irrigating crops and he had not returned home. When her father-in-law went for his search, her husband was lying down and a live electrical wire was found near by him. Then, her husband was brought to the nearby Government Hospital in Mundiypakkam by ambulance, where the doctors declared that he was brought dead. Therefore, her father-in-law lodged a complaint in Thiruvennainallur Police Station and case was registered in Crime No.201 of 2014 under Section 174 of Cr.P.C. The post mortem report clearly revealed that the death of her husband due to electrical shock. The electrical cable passing through our agricultural land was not fitted well by the respondents and it was snapped from the post during the previous day rain. The respondents ought to have taken care and maintenance to avoid the snapping of wires and its repair. Due to their reluctance, her husband was electrocuted. The petitioner's husband was 38 years at the time of his death and was doing agriculture and was earning Rs.15,000/- per month. The petitioner is a home maker and her husband is the sole bread winner to their family. Therefore, she made a representation dated 06.03.2015 to the respondents seeking compensation for negligence committed by the respondents. Since the said representation has not been considered till date by the respondent, the present writ petition is filed.

3. A counter affidavit is filed by the respondents, wherein it is stated as follows:

The writ petition is not maintainable and proper remedy is to file a Civil Suit. On 27.05.2014, there was heavy rain and thunder, due to the heavy rain the LT line running across the agricultural land belonging to the petitioner snapped and fell down on the standing crops. Since, the snapped wire fell on the standing crops and the live wire did not get earthed properly on the earth, the respondent did not get knowledge about the snapped wire. The respondent had taken all sufficient and necessary precaution care and interest to maintain the line wires. The wire was snapped due to heavy rain and thunder which is purely act of god and there is not negligence on the part of the respondents. The respondents are properly maintaining the Conductors and the automatic fuse system and the other amenities. The electrocution accrued beyond the proper maintenance and precautionary measures taken by the respondents. Hence, the respondents are not liable to pay the compensation to the petitioner. The respondent cannot pay any more amount than

the amount fixed under Board Proceeding (Full Bench) No.5 dated 29.04.2013 the ex-gratia payment payable on compassionate grounds in respect of fatal of Rs.2,00,000/-. There is no merit or bonafide in making the claim of Rs.10 Lakhs. Even the post-mortem report discloses that the cause of death to be finalized only after chemical analysis. Therefore death due to electrocution not conclusively established. Hence, the writ petition is liable to be dismissed as devoid of merits.

4. Heard both sides.

5. The petitioner seeks for compensation from the respondents towards the death of her husband due to electrocution. It is seen that on 27.05.2014, when the petitioner was going to his agricultural land, he was electrocuted resulting out of snapping live wire during the heavy rain. Consequently, the petitioner's husband died and a criminal case was registered in Crime No.201/2014 under Section 174 of Cr.P.C.

6. Perusal of the FIR would show that the petitioner's husband died due to electrocution. Even the counter affidavit filed by the respondents does not deny the said fact. On the other hand, it is their contention that the wire got snapped due to heavy rain and thunder, which was purely an act of God and there was no negligence on the part of the respondents. I do not think that the respondents are justified in shirking their responsibilities by blaming the snapping of wire as an act of God.

7. Needless to say that the respondents are duty bound to make periodical maintenance and thorough checkup that too, during rainy season by seeing that the wires are properly tied without giving any room for snapping, thereby causing danger to the life of the people and cattle during the rainy season.

8. Under similar circumstances, this Court has considered the very same issue in W.P.No.30272 of 2017 dated 07.12.2018 and found at paragraph Nos.7 and 8 as follows:

"7.....The very same issue was considered by the learned Single Judge of this Court in W.P.No.15285 of 2013 dated 26.10.2016 reported in 2017(1) CTC 668, R.Kumar vs Electricity Department, wherein the learned Single Judge. The Secretary to Government, has observed at paragraph 6 and 7 as follows:

"6.The first question that needs to be addressed is whether the snapping of OH-LT live-wire due to heavy wind and rain, would amount to an "Act of God". It is needless to mention that prior to installation of live-wire, careful precaution must be taken to

ensure that the electric wires which are prone to come in contact with the public if snapped in times of heavy rain and wind, are installed with utmost durability and endeavour to withstand such unforeseen calamity. Rigorous periodical inspection needs to be conducted to such installation to avoid any untoward incident. Absence of the precaution would amount to negligence on the part of the respondents. It is common knowledge that rain tends to become heavy only after gradual and constant down-pour thereby turning into storm or gale wind, which are always predictable and hence precautions like cutting down the power supply to the openly installed live wires and transformer is essential during such untoward incidents.

7. In the case on hand, the live wire, to which, the deceased Victor came into contact, had snapped either due to poorly installed electric pole or lack of proper and periodical maintenance of the same. The respondents do

not seem to have taken any precaution to cut down the power supply, when heavy rains and winds were anticipated. I do not find any of the reasonings put forth by the learned counsel for the second respondent in its counter affidavit as well as during his oral submissions to the effect that the accident was due to an "Act of God". On the other hand, the unfortunate incident is attributable due to the negligence on the part of the concerned officials of the second respondent."

8. I am in full agreement with the finding rendered by the learned Single Judge. Likewise, the other objections raised by the respondents that the writ petition is not maintainable, is also answered by this Court in a case reported in (2013) 2 MLJ 302, Arulmeri vs Superintendent Engineer, TNEB, where this Court has rejected the objection of the electricity board with regard to the maintainability of the writ petition. Therefore, this Court is of the view that the respondents are bound to compensate the petitioner."

9. Therefore, this Court finds that the respondents are bound to compensate the petitioner.

10. In this case, it is stated that the petitioner's husband by doing agriculture, was earning Rs.15,000/- per month. It is also stated that he was 38 years at the time of his death. There is no dispute to the fact that the petitioner's husband

was electrocuted, while he was proceeding to his agricultural land to do some agricultural operation. Therefore, it is evident that the petitioner's husband was doing agriculture and consequently, would have earned a considerable sum for his family. It is further seen that he died at the age of 38 years.

11. Considering the above stated facts and circumstances, this Court is of the view that the notional income of the deceased could be fixed as Rs.6,000/- per month and after deducting 1/4 towards his personal expenses, a sum of Rs.4,500/- could be arrived at as loss of monthly income. By applying multiplier of '15' (for the age group 36 to 40 years) to the income of Rs.4,500/- per month, as per the dictum laid down by the Hon'ble Supreme Court in Sarla Verma's case, the compensation for the loss of income is worked out as Rs.8,10,000/- (Rs.4,500 X 12 X 15). Towards loss of love and affection and other expenses, further sum of Rs.1,00,000/- is also liable to be paid. Thus, in total Rs.9,10,000/- is to be paid by the respondents. Accordingly, the writ petition is allowed by directing the respondents to pay a sum of Rs.9,10,000/- (Rupees Nine Lakhs ten thousand only) towards compensation along with interest at the rate of 6% per annum from the date of the death of the deceased husband viz., 27.05.2014 to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

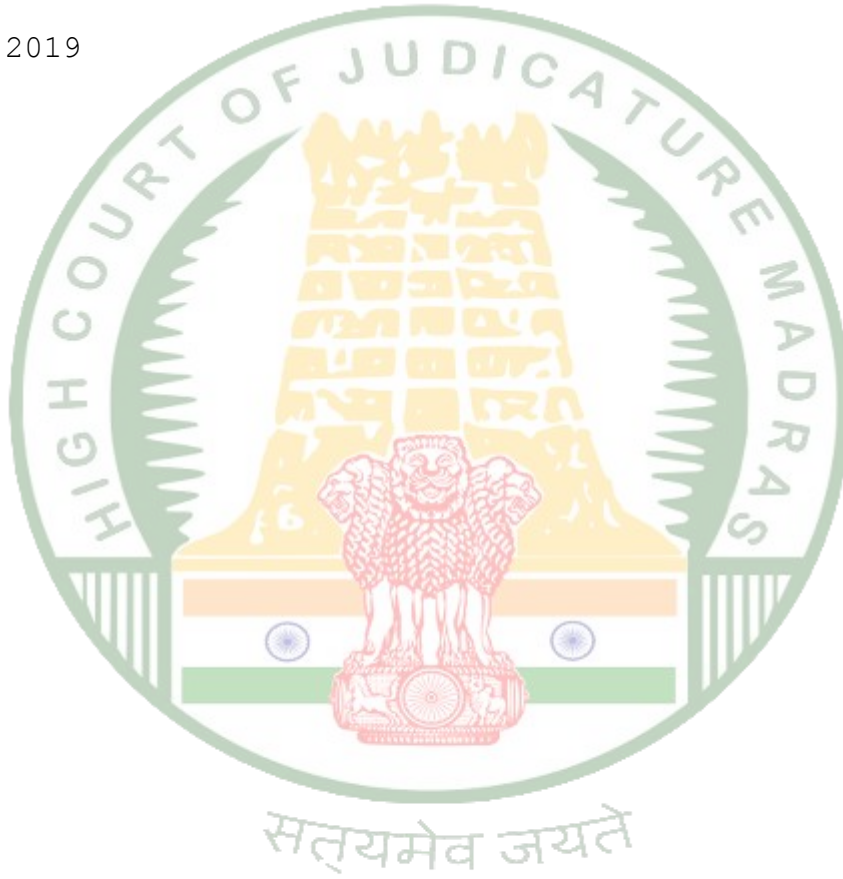
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+2 cc to Mr.E.Sathiyaraj, Advocate, Sr.No. 38316
+1 cc to Mr.M.Varunkumar, Advocate, Sr.No. 39399

Order in
W.P.No.9766 of 2015

AK(CO)
CSL/04.06.2019



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