

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.18095 of 2017

1.Veerasami
2.Ambiga
3.Raja Rajeshwari ... Petitioners

Vs

1.The Chairman,
Tamil Nadu Electricity Board,
TANGEDCO,
No.144, Anna Salai,
Chennai - 2.
2.The Superintendent Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO, 10th East Main Road,
Gandhi Nagar, Vellore - 6.
3.The Assistant Engineer,
Operation and Maintenance,
Sathumadurai, TANGEDCO,
Adukkamparai, Vellore. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the proceedings bearing Ka.No.023248/477/VEDC/NiBi5/U2/MiVi 2016-1, dated 21.12.2016, on the file of the second respondent in awarding compensation to the petitioners at Rs.2,00,000/- on account of Electrocution death of deceased Mr.Narasimmaraj and quash the same as insufficient and unlawful and thereby consequentially direct the second respondent to pay enhanced compensation to the petitioner.

For petitioner : Mr.P.Vasanth

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

ORDER

The petitioners are parents and sister of deceased Narasimmaraj, aged about 20 years, who died on 22.08.2016 due to electrocution. They have filed this writ petition challenging the proceedings dated 21.02.2016 of the second respondent/the Superintendent Engineer, Vellore Distribution Circle, Vellore, awarding only a meagre sum of Rs.2,00,000/- and they have also sought for a direction to the second respondent to pay enhanced compensation to the petitioners.

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

3. It is averred in the affidavit filed in support of the writ petition that the deceased Narasimma Raj, aged about 20 years, was studying Diploma in Mechanical Engineering at Venkateswara Polytechnic College, Vellore. On 22.08.2016 at about 5.30 p.m., while his son was returning from the College, near the land belonging to one Kasi where the livewire was lying unattended, he was electrocuted and died on the spot. It is also stated that on the fateful day, although lying of livewire on the said land was informed to the respondents, they had neither stopped the passing of electricity through the livewires nor taken any step to restore the same into a normal position. Therefore, it is pleaded, 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 20 years. It is also further stated that had the respondents Board acted immediately after knowing lying of livewires, the ill-fated accident would have been averted. Hence, the impugned proceeding dated 21.12.2016 passed by the second respondent awarding only a meagre sum of Rs.2,00,000/- is liable to be set aside and a direction may be given to the respondents to pay the just compensation.

4. From the above said facts and circumstances of the case and also on perusal of the First Information Report dated 22.08.2016 and Postmortem certificate dated 23.08.2016, it is clear that the death had occurred due to the negligence on the part of the Electricity Board as they had failed to act swiftly to rectify the lying of livewire and 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 son was aged about 20 years as could be seen from the postmortem certificate dated 23.08.2016 issued by the Department of Forensic Medicine, Government Vellore Medical College. Therefore, since the deceased was a bachelor and was studying Diploma in Mechanical Engineering, 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 x 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/-. With regard to fixation of future prospects, it is relevant to take note of the judgment of the Hon'ble Apex Court in National Insurance Co. Ltd. Vs. Pranay Sethi and others [2017 (2) TN MAC 609 (SC)] and for better appreciation, relevant portion of paragraph No.61 is quoted below:

"61 (iii). While determining the income, an addition of 50% of actual salary to the income of the deceased towards Future Prospects, where the deceased had a permanent job and was below the age of 40 years, should

be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."

From the reading of the above said ratio, it is clear that in case the deceased was a self-employed person, an addition of 40% of the established income should be added where the deceased was below the age of 40 years. In the case on hand, it is not in dispute that the deceased was aged about 20 years at the time of his death. Therefore, if 40% is added from the monthly income fixed at Rs.11,000/- i.e. Rs.4,400/- towards future prospects, the total monthly income of the deceased works out to Rs.15,400/- (11000 + 4400).

6. Besides, by following the ratio laid down by the Hon'ble 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 (15400-7700) towards personal expenses, this Court hereby awards a sum of Rs.16,63,200/- (7700x18x12) 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.17,88,200/- as total compensation. The respondents/Electricity Board are hereby directed to pay the said amount as compensation to the petitioners, 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman,
Tamil Nadu Electricity Board,
TANGEDCO,
No.144, Anna Salai,
Chennai - 2.
- 2.The Superintendent Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO, 10th East Main Road,
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Operation and Maintenance,
Sathumadurai, TANGEDCO,
Adukkamparai, Vellore.

+lcc to Mr.P.Vasanth, Advocate Sr.89589
+lcc to Mr.M.Varunkumar, Advocate Sr.89490

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