

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 25.03.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) .No.362 of 2019

Nabishal Begam

... Appellant/Petitioner

Vs.

1. The Chief Engineer,
Tamil Nadu Electricity Board,
Tirunelveli District.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli District.
3. The District Collector,
Tirunelveli,
Tirunelveli District.
4. The Executive Engineer,
TANGEDCO (Distribution),
Tenkasi,
Tirunelveli District.

... Respondents/Respondents

Prayer:- Writ Appeal is filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD).No.22753 of 2018, dated 14.11.2018.

Prayer in WP(MD) . 22753/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records of the 4th respondents impugned communication in Na.Ka.No.Se.Po/V/Then/Varai/Ko.Pu.Manu/ A.No.5490/2018 dated 11.10.2018 and quash the same as devoid of merit consequentially direct the respondents to pay suitable compensation for the death of petitioners son by considering her representation dated 2.7.2018, within the period as stipulated by this Honourable Court



For R3

: Mr. Aayiram K. Selvakumar
Additional Government Pleader**J U D G M E N T**(Judgment of the Court was delivered by **K. KALYANASUNDARAM, J.**)

This writ appeal is directed against the order of the learned single Judge passed in W.P.(MD).No.22753 of 2018, dated 14.11.2018.

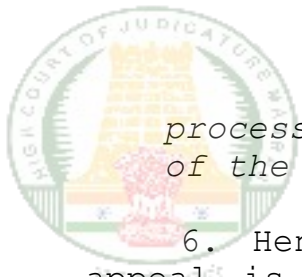
2. The writ petition was filed challenging the order of the fourth respondent rejecting the appellant's prayer for compensation for the death of her son Mohammed Moideen, due to electrocution. It is seen that on 27.06.2017, a Flag Festival was conducted by the Administrator of Kaja Moideen Dharga Committee. During the procession, the petitioner's deceased son Mohammed Moideen was sitting on the top of the elephant and he came into contact with live wire and died.

3. Mr. A. Haja Mohideen, learned counsel for the appellant would state that the death of the appellant's son is not in dispute and as per the Board proceedings of the respondents, the appellant is entitled for a compensation Rs.2,00,000/-, but the same has not been considered by the learned single Judge.

4. Per contra, Mrs. S. Parameshwari, learned counsel for the respondents 1, 2 and 4 would state that if there is any negligence on the part of the Electricity Board, the victim is entitled for Rs.2,00,000/- under no fault liability and the claim is rejected by the respondents and the remedy to the appellant is to approach the competent civil Court.

5. The learned single Judge, after considering the rival submissions, in Paragraph -10 has held as follows:

"10. On a perusal of records, it could be seen that the petitioner's son has not acted diligently and he has got electrocuted only when he was sitting on the top of the elephant and the Tamil Nadu Electricity Board is not at fault for the said incident. If there was any prior permission sought for from the authorities, some preventive measures could have been taken by the Tamil Nadu Electricity Board. It is well known that in our state, all the electric wires are being connected only from the erected poles and no underground connections are given by the Tamil Nadu Electricity Board. Such being the case, the petitioner's son ought to have taken precautionary measure while he was sitting on top of the elephant and the petitioner cannot find fault with the Electricity Board and cannot seek compensation from it. When the petitioner has not proved any violation of any Rules by the Tamil Nadu Electricity Board by not disconnecting the electricity connections at the time of



procession, this Court is not inclined to consider the case of the petitioner and award any compensation."

6. Hence, we find no merit in the writ appeal and the writ appeal is dismissed. However, if the petitioner is entitled for Rs.2,00,000/- under no fault liability, liberty is given to the appellant to approach the competent authority. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Chief Engineer,
Tamil Nadu Electricity Board,
Tirunelveli District.
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Tamil Nadu Electricity Board,
Tirunelveli District.
3. The District Collector,
Tirunelveli,
Tirunelveli District.
4. The Executive Engineer,
TANGEDCO (Distribution),
Tenkasi,
Tirunelveli District.

+1cc to Mr.A.HAJA MOHIDEEN, Advocate, SR.No.56509

+1cc to M/s.Special Government Pleader,SR.No. 56931

W.A. (MD) .No.362 of 2019

AKV

KK/SAR/23.04.2019/ 3P- 7C