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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 8866 of 2015

and

W.M.P (MD) .No.1 of 2015

A.Muthulakshmi

... Petitioner

Vs

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-2.
2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Sivagangai, Sivagangai District.
3. The Assistant Engineer,
Distribution (TNEB),
TANGEDCO,
Rajagambiram,
Sivagangai District.
4. The Assistant Engineer,
Distribution (TNEB),
TANGEDCO,
Manamadurai,
Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay the compensation of Rs.15,00,000/- to the petitioner with interest to the petitioner for the death of the husband of the petitioner viz Ayyanar.

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For Petitioner : Mr.J.John
For Respondents : Mrs.S.Srimathy
for S.M.S.Johny Basha

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondents.

2.The petitioner's husband died on 02.07.2014 due to electrocution in an open field. The writ petitioner and his two minor children are the legal heirs. The writ petitioner demanded payment of compensation. The respondents declined to accede to the petitioner's request and that necessitated filing of this writ petition.



3.The learned Standing Counsel appearing for the respondents placed reliance on a paragraph occurring in the standard text on the Law of Torts by Ratanlal & Dhirajlal. The passage relied on by the learned Standing Counsel is as under:-

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"A Division Bench of the M.P High Court has applied the rule of *M.C.Mehta Vs. Union of India* (p.503) against the M.P. Electricity Board although there was also finding of negligence against the Board. It is extremely doubtful if the rule in *M.C.Mehta* can be applied to transmission of electricity. *M.C.Mehta* related to escape of oleum gas and was applied in *Charan Lal Sahu* where there was escape of MIC gas. These gases were highly toxic gases. The transmission of Electricity is not that hazardous. Moreover, there appears to be no statutory authority to support the manufacture of obum gas or MIC. It is still a question open for decision of the Supreme Court if *M.C.Mehta* rule applies when there is statutory authority to carry out the hazardous industry. The Supreme Court has so far not applied this rule to transmission of Electricity or in a case where there is statutory authority to support the activity. "

4.The stand of the respondents is that one day prior to the fateful day, there was heavy wind and rain leading to snapping of the electric wires. The defence taken by the respondents is that for an act of god, the respondents cannot be fastened with liability. The learned Standing Counsel would further contend that the writ petitioner must move the Civil Court for working out her remedies and the petition under Article 226 of the Constitution of India will not lie.

5. I am unable to agree with any of the objections raised by the learned Standing counsel. The facts remains that the petitioner's husband died due to electrocution. The petitioner's husband had gone to the field to cut grass. He did not notice the fallen live wires. He accidentally came in touch with them and died as a result. In this regard Crime No.438 of 2014 was registered on the file of Manamadurai Police Station. I am of the view that in these cases, the principle of absolute liability will have to be applied. The respondents being a statutory authority, cannot take shelter behind the act of god. Compensation has been awarded in a large number of similar writ petitions.

6.The learned counsel appearing for the petitioner placed reliance on the decisions reported in **2014 Writ L.R. 739 (R.Pareetha Beevi and others Vs. The Chairman, The Tamil Nadu Electricity Board (TNEB), Anna Salai, Chennai-2 and others)** and **2014 15 SCC 1 (Raman Vs. Uttar Haryana Bijli Vitran Nigam Ltd and others)** and an unreported decision dated 06.12.2017 in W.P(MD).No/24079 of 2018. It is a needless exercise to reiterate the principles that have been



already settled in these decisions. Therefore, I hold that the writ petition is very much maintainable.

7. The learned Standing Counsel appearing for the respondents would probably be justified in relegating the parties to move the Civil Court if there are any factual disputes involved. Since there cannot be any dispute as regards liability, now it is only a question of working out the quantum of compensation. The writ petitioner is willing to abide by the settled parameters in this regard. No exception can be taken to the application of the formula that is invoked in the case of calculating and determining compensation under the Motor Vehicle Act. The writ petitioner's husband was a Driver by profession, but there is no income proof forthcoming. Accident took place in the year 2014. Therefore, this Court can safely assume, in the absence of income proof, that the petitioner's husband would have been earning a sum of Rs.6,500/- per month. Since he had three dependents, 1/3rd deduction will have to be made. Considering his age namely 34, the relevant multiplier is 17. The Hon'ble Supreme Court in the decision in **National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017** has held that the dependents are entitled to a further sum of Rs.70,000/- towards loss of consortium, loss of estate and funeral expenses.

8. Therefore, the compensation payable to the claimants can be arrived at in the following manner :

Monthly Salary	: Rs.6,500/-
After deducting 1/3 rd	: Rs.4,334/-
Annual income	: Rs.8,84,136/- (4,334X12X17)
Loss of consortium, loss of estate and funeral expenses as per Pranay Sethi	: Rs.70,000/-
Total Compensation	: Rs.9,54,136/-

The compensation payable to the claimants would come to Rs.9,54,136/-.

9. The learned counsel appearing for the writ petitioner fairly states that a sum of Rs.2,00,000/- have already been paid to them. Therefore, the respondents are liable to pay a further sum of Rs.7,54,136/-.

10. The petitioner being the wife is entitled to a sum of Rs.4,00,000/-. The remaining amount of Rs.3,54,136/- will be in the form of Fixed Deposit in any Nationalised Bank. The petitioner herein could be entitled to withdraw the accrued interest once in three months. The children can take the said amount in equal shares upon their attaining majority. The respondents shall pay Rs.7,54,136/- within a period of eight weeks from the date of receipt of a copy of this order.



11.The Writ Petition is allowed accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

sd/
Assistant Registrar(writs)

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Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-2.
2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Sivagangai, Sivagangai District.
3. The Assistant Engineer,
Distribution (TNEB),
TANGEDCO,
Rajagambiram,
Sivagangai District.
4. The Assistant Engineer,
Distribution (TNEB),
TANGEDCO,
Manamadurai,
Sivagangai District.

+1 CC to Mr.J.JOHN, Advocate (SR-50453[F] dated 28/02/2019)
+1 CC to Mr.S.M.S.JOHNNY BASHA, Advocate (SR-50776[F] dated
01/03/2019)

W.P. (MD) No.8866 of 2015
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