



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19191 of 2018

Vasantha

... Petitioner

Vs

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
NPKRR Maligai,
No.144, Anna Salai,
Chennai-600 002.

2.The Superintendent Engineer,
Virudhunagar Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to a sum of Rs.15,50,000/- (fifteen lakhs and fifty thousand only) towards compensation for the death of the petitioner's husband aged about 65 years who met with an accident due to electric shock on 07.04.2018 Namasivayapuram, Kariyapatti Taluk, Virudhunagar District, due to the negligence on the part of the respondents to the petitioner and his family.

For Petitioner : Mr.S.Bharathi

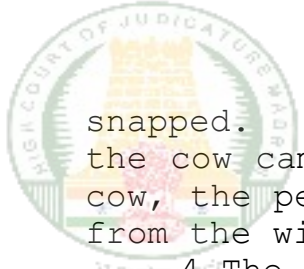
For Respondents : Mr.G.Kasinathadurai

ORDER

Heard the learned counsel on either side.

2.The petitioner's husband died due to electrocution on 07.04.2018. Seeking payment of a sum of Rs.15,50,000/- as compensation, this writ petition has been filed.

3.The respondents have filed a detailed counter affidavit. From a reading of the materials on record, it is seen that the respondents had installed a electric pole in the petitioner's agricultural field. The petitioner and her husband were having a cow which used to graze in the said field. The said cow had rubbed itself against the pole and in that process, its horns got entangled with the earth wire in the post. The cow had attempted to release itself from the said wire and in that process, the earth wire got



snapped. The supporting insulator also got broken. As a result, the cow came in contact with the live wire. In order to rescue the cow, the petitioner's husband rushed. He tried to extricate the cow from the wire. In the process, he also got electrocuted and died.

4. The standing counsel appearing for the respondents would contend that TANGEDCO cannot be blamed for the incident. He invoked the legal maxim "***volenti non fit injuria*** - *there is no injury to one who consents*". The petitioner's husband, in the process of attempting to save the cattle, coursed danger voluntarily.

5. I am unable to appreciate the stand of the respondents. The respondents had installed an electric pole in the open field. It is well known that any cattle passing by a pole will have the tendency to rub its body against the pole. Therefore, the behaviour of the writ petitioner's cow cannot be said to be abnormal. But on account of the horn of the cow getting entangled with the earth wire, the entire accident had taken place.

6. I can only come to the conclusion that the pole had been erected in such a manner that could not withstand even this minor occurrence. Therefore, the principle of absolute liability can certainly be fastened on the respondents. The writ petitioner's husband was aged more than 60 years at the time of accident. Therefore, I am of the view that the petitioner had made an excessive claim.

7. The learned counsel for the petitioner submitted on instructions that the petitioner is having a mentally challenged son. He would submit that if the petitioner is given a sum of Rs.5,00,000/-, he would accept the same towards full and final settlement.

8. I am of the view that the offer made by the learned counsel for the petitioner is certainly reasonable. Therefore, the respondents are directed to pay a sum of Rs.5,00,000/- to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order, towards full and final settlement of all the claims which the petitioner may have against the respondents.

9. Accordingly, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
NPKRR Maligai,
No.144, Anna Salai,
Chennai-600 002.

2.The Superintendent Engineer,
Virudhunagar Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
Virudhunagar,
Virudhunagar District.

+1cc to Mr.S.BHARATHI, Advocate, SR.No.58415

+1cc to Mr.G.KASINATHADURAI, Advocate, SR.No. 58982

W.P. (MD) No.19191 of 2018

PNN

KK/SAR/24.04.2019/ 3P- 5C