



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD)No.16586 of 2019

WEB COPY

M.Dhundi

... Petitioner

Vs.

1. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.800 Annasalai, Chennai.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Superintending Engineer
Tamilnadu Generation and Distribution Corporation Ltd.,
Electricity Distribution Circle,
Ramanathapuram.

4.The Assistant Engineer,
Tamilnadu Generation and Distribution Corporation Ltd.,
Electricity Distribution Circle, Thondi
Ramanathapuram.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to pay the compensation and damages of Rs.10 lakhs to the petitioner for their act of negligence which resulted in electrocution death of the petitioner's wife based on the petitioner's representation dated 31.10.2017 and 26.02.2018 within a time frame to be fixed by this Court.

For Petitioner	: Mr.B.Chakravarthi
For Respondents	: Ms.S.Srimathy
	for Mr.S.M.S.Johnny Basha
	for R1, R3 & R4
	Ms.J.Padmavathi Devi
	Special Government Pleader for R2

ORDER

The prayer sought for in this writ petition is for a writ of mandamus to direct the respondents to pay the compensation and damages of Rs.10 lakhs to the petitioner for their act of negligence, which resulted in electrocution death of the petitioner's wife based on the petitioner's representations dated 31.10.2017 and 26.02.2018.



2. It is the case of the petitioner that on 01.10.2017, his wife went to purchase water sold from the Tractor tanker. At that time, the HT line touched the roof of the tractor, as a result of which, the Driver came in contact with the live High Tension wire conducting electricity. In the process of drawing water from the Tractor, the petitioner's wife also got electrocuted in the same incident when electricity was conducted through the Driver from the High Tension line and got burn injuries and immediately, she was taken to the hospital at Ramanathapuram. A case in Crime No.205/2017 came to be registered under Section 176 Cr.P.C. on 01.10.2017. Even after treatment, the petitioner's wife succumbed to the injuries on 13.10.2017. On her death, the petitioner filed the present writ petition for grant of compensation and damages to the tune of Rs.10 lakhs for the act of negligence of the Electricity Department causing electrocution to his wife.

3. In response to the notice issued by this Court, the Electricity Department would deny the facts on the ground that the accident had taken place due to the negligence of the Tractor Driver and there is no fault on their side. The Driver of the Tractor climbed up the Tanker and attempted to throw the hose to the other side and in that process, he came in contact with the electrical High Tension line. Normally, the distribution lines will be at the height of 20 feet and as per the norms, 5% sagging is allowed. The line was not hanging below the permitted norms, as contended by the petitioner and therefore, the accident caused is due to the Act of God and hence, the doctrine of strict liability cannot be applied to the present case and they should be exempted from paying the compensation.

4. It is true to state that the accident might have happened due to the negligence of the Tractor Driver. However, the scale of negligence or tortious act cannot be attributed to the victim. She was innocently drawing water from the tanker and suffered electrocution. It is well settled that right to live is a fundamental right as provided under the Constitution of India. Insofar as the petitioner's wife is concerned, she is the home maker and main axis of the family bearing all responsibilities to take care of the children and the responsibility of running the family. With the loss of the woman of the family, the family could have shattered beyond imagination, that too, by this accident. In other words, their fundamental right to live and live with dignity is lost due to the death of the petitioner's wife, who is the mother of three children. The State is liable to maintain the overhead electric lines beyond reach of a normal person. From the accident, it could be seen even at the throw of a hose the tractor Driver got in contact with the sagging electrical line. Such act amounts to tort and the tort-feasor be liable to pay the compensation.



5. The electricity Board officials will strictly follow Rule 91 of the Indian Electricity Rules, 1956, by taking safety measures by providing with the devices approved by the Inspector for rendering the line electrically harmless in case it breaks. In cases where somebody get into contact with a live wire, there shall be arrangement that the electricity connection gets tripped and that does not kill a life. Insofar as this incident is concerned, the petitioner's wife has lost her life, which is invaluable.

6. As stated supra, the duty is cast upon the respondents to take all safety measures, so that no lives are lost in an accident. The respondents are responsible for this accident by not making precautionary measures but also for negligence through the sagging live electrical line. The respondents have submitted that they are not liable and the accident is an Act of God. However, they are prepared to pay a sum of Rs.2,00,000/- as no fault liability.

7. Considering the nature of her avocation as house wife and an agricultural coolie, the income of the deceased shall be construed as Rs.150/- per day. An average she may work for 20 to 25 days a month and she may earn around Rs.45,000/- per annum and she may have earned a sum of Rs.4,50,000/- in ten years.

8. In view of the above, considering the pecuniary loss of the petitioner, loss caused to the petitioner's wife and that the damage caused to their family, this Court deem it fit that a sum of Rs.5,00,000/- would be reasonable compensation.

9. Accordingly, the respondents are directed to pay a sum of Rs.5,00,000/- (Rupees five lakhs only) towards compensation along with interest at the rate of 7.5% from the date of filing of the writ petition till the date of payment. The amount shall be paid within a period of six weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of with the above directions. No costs. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

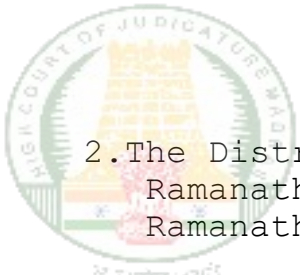
To

1.The Chairman

Tamil Nadu Generation and Distribution Corporation Ltd.,

8-66, Anna Salai, Chennai.

<https://hcservices.courts.gov.in/hcservices/>



2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Superintending Engineer
Tamilnadu Generation and Distribution Corporation Ltd.,
Electricity Distribution Circle,
Ramanathapuram.

4.The Assistant Engineer,
Tamilnadu Generation and Distribution Corporation Ltd.,
Electricity Distribution Circle, Thondi
Ramanathapuram.

+1 CC to Mr.B.CHAKRAVARTHI, Advocate (SR-93148[F] dated
21/10/2019)

W.P. (MD) No.16586 of 2019
18.10.2019

rr

_MK (04.11.2019) 4P 6C