

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-01-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

A.S.No.171 of 2013

1. Union of India

rep. by Chief Secretary to Government
Union Territory of Puducherry
puducherry.

2. The Superintending Engineer III
Electricity Department,
Puducherry.

... Appellants/Defendants1 & 2

vs.

1.Selvi

2.Poorani

3. Murugan

...Respondents1 to 3/Plaintiffs

4. Kamatchi

...Respondent 4/3rd Defendant

Appeal under Section 96 of the Code of Civil Procedure,
1908, against the judgment and decree made in O.S.No.64 of 2010
on the file of the III Additional District Judge, Pondicherry
dated 21.09.2011.

For Appellant

: M/s.G.D.Jearany

Govt.Advocate (Puducherry)

For Respondents

: Mr.A.S.Baradhi

for Mr.B.Sivaraman (R1 to R3)

J U D G M E N T

The appeal suit on hand is filed challenging the judgment and decree passed in O.S.No.64 of 2010 dated 21.09.2011. The appellant is the Union of India represented by the Chief Secretary to Government, Union Territory of Puducherry, challenged the judgment and decree mainly on the ground that the quantum of compensation awarded is enormous and not based on materials placed before the Trial Court.

2. The Trial Court failed to consider the contributory negligence on the part of the deceased person and awarded an exorbitant amount of compensation. At the outset, it is contended that the award of Rs.6,00,000/- as compensation to the respondent is baseless and the materials placed before the Trial Court had not been considered.

3. The suit was instituted for directing the respondents to pay a sum of Rs.7,92,000/- with interest at the rate of 12% per annum, on account of the death of the father of the plaintiffs Mr.Kuppusamy on 12.03.2009, on account of electrocution. On 12.03.2009, at about 9.30 AM, the deceased Mr.Kuppusamy had went to the land of Mr.Shanmugam, S/o. Velayutham of Silukkaripalayam village, near the canal without noticing the snapping of line wire hanging down towards to the ground happened to contact him and immediately with the help of the wife had rushed to the General Hospital, Puducherry, wherein he was reported dead at 9.30 AM itself.

4. The accident occurred due to the negligence on the part of the defendants in maintaining the electric wires periodically by conducting patrolling. Mr.Kuppusamy died on account of the electrocution which reveals the negligence on the part of the defendant in maintaining the electric cables in that locality. It was contended by the plaintiffs that the deceased Mr.Kuppusamy was the sole breadwinner of the family and on account of the sudden demise, the family is not in a position to lead their normal life. The deceased was hail and healthy and was able to perform hard agricultural works. He was earning Rs.250 per day during the relevant point of time and subsequently, the plaintiffs had issued a legal notice on 01.07.2009 under Section 80(1) of the Code of Civil Procedure to the defendant. The defendants acknowledged the notice and no reply has been sent to the plaintiffs.

5. In the written statement, the second defendant denied the allegations by stating that on hearing the electrical

accident, the officials of the Electricity Department rushed to the spot and on inspection, it was observed that the accident had happened while the victim came to contact with the snapped live wire lying on the ground. Only on account of coconut palms falling upon the low tension line due to heavy wind the above accident was caused. By stating so, the defendants have denied allegations of negligence in maintaining the electrical cable periodically in that locality. The loss of income calculated by the plaintiffs was baseless and imaginary.

6. The Trial Court framed the issues as to whether the suit is maintainable, whether there is any negligence from the defendant side official, whether the plaintiff is entitled for compensation, whether the plaintiff is entitled for judgment and decree.

7. On the side of the plaintiffs, the first plaintiff has examined as PW-1 and Ex.A1 to A9 were marked. On the side of the defendants, Mr.Balamurugan, junior Engineer of the 2nd respondent Electricity Department has examined the PW-1 and Ex D1 was marked through him.

8. With reference to the issue Nos.1 to 3, the Trial Court found that Ex-A1 is the copy of the FIR in Cr.No.36 of 2009. Ex-A2 is the Post-mortem report. Ex-A3 is the copy of the inquest report. Ex-A4 is the death certificate of the deceased Mr.Kuppusamy. Ex-A5 is the death certificate of the mother of the plaintiffs namely Matchagandhi. Ex-A6 is the photocopy of family ration card of the plaintiffs.

9. The plaintiffs had approached the defendants for damages by issuing a legal notice and there was no reply from the defendants. The contention of the plaintiffs before the Trial Court was that on account of the negligence on the part of the defendants in maintaining the electrical cable, the accident had occurred and accordingly placed judgments regarding the failure to reply the returned notice for the purpose of drawal of inference and regarding loss of life due to the negligence of Electricity Board and mode of arriving at compensation.

10. The Trial Court considering the sequence of incidents as well as the documents produced by the respective parties, arrived a conclusion that even as per DW-1, Junior Engineer of the Electricity Department, he admitted in chief examination that the particular electrical wire snapped due to the falling of coconut palm due to heavy rain. The snapped wire was not found in time by the Department personnel and it was not repaired properly. The fatal incident occurred and the victim

Mr.Kuppusamy died due to the electrical shock. The failure in attending the maintenance work by the staff concerned is also a strong reason for the accident. In view of the fact that the plaintiffs could not be able to establish that there was an inaction and omission on the part of the defendant department in maintaining the electrical cables periodically and not identifying the snapped wire fell in time. The Trial Court arrived at a conclusion that the defendants are jointly and severally liable to pay compensation to the legal heirs of the victim deceased Mr.Kuppusamy.

11. With reference to the issue Nos.4 and 5, the Trial Court found that the quantum of compensation is to be fixed by following the procedure and by considering the age and the income of the victim. In order to quantify the compensation, the Trial Court relied on the deposition of PW-1 and further made a finding that even assuming that the deceased was working as a coolie during the year 2009, he would have earned at least Rs.6,000/- per month. Accordingly, fixed the monthly income of the victim as Rs.6,000/- per month. Thus the contribution per annum would have worked out (Rs.6000X12=Rs.72,000/-). Deducting one third of the amount towards the maintenance of the deceased had he been alive, the actual amount of contribution for arriving at the loss of dependency works out to (Rs.72,000 minus Rs.24,000 = Rs.48,000/-). The Trial Court considered the multiplier of "11", the loss of dependency of the plaintiffs, to be paid compensation, works out to (Rs.48,000 X 11 = Rs.5,28,000/-). The Trial Court considered the grant of compensation by applying the multiplier method. Further a sum of Rs.50,000/- is awarded towards loss of love and affection, a sum of Rs.2,000/- is awarded towards damage to wearing apparels and personal belongings and a further sum of Rs.20,000/- awarded towards funeral expenses. Accordingly, the total compensation awarded by the Trial Court is Rs.6,00,000/- and the details are as extracted hereunder:-

"Compensation for loss of dependency:	Rs.5,28,000/-
Compensation for Love and affection :	Rs. 50,000/-
Compensation for funeral expenses :	Rs. 20,000/-
Damage to wearing apparels :	Rs. 2,000/-
Total :	Rs.6,00,000/-"

The total compensation of Rs.6,00,000/- is directed to be paid to the plaintiffs by the defendants with the interest at the rate of 7.5% per annum from the date of plaint till payment along with the cost.

12. The learned counsel appearing on behalf of the appellant made a submission that the amount of compensation arrived by the Trial Court is imaginary and not based on any strong evidence. Thus the judgment and decree is liable to be scrapped. In support of the said contention, the learned counsel for the appellant solicited the attention of this Court that the monthly income of Rs.6,000/- fixed was not based on any evidence and the Trial Court fixed the same on certain presumptions. Such presumptive fixation made by the Trial Court is unsustainable in law.

13. Per contra, the learned counsel appearing on behalf of the respondents denied the contentions by stating that the Trial Court adopted a strong logic and fixed the monthly income as Rs.6,000/- by taking into consideration the fact that the deceased was an agricultural cooly. Therefore the Trial Court has not made any imaginary calculation in respect of fixation of monthly salary or arriving the quantum of total compensation. The minimum wages paid during the relevant point of time for a cooly was taken into consideration for the purpose of fixation of monthly income of the deceased Mr.Kuppusamy. Thus, there is no error as such in respect of arriving a conclusion or fixation of monthly income to the deceased Mr.Kuppusamy.

14. This Court is of the considered opinion that the formula adopted by the Trial Court is in consonance with the legal principles. The monthly income of the deceased victim was fixed based on the fact that he was an agricultural cooly and the amount of Rs.6,000/- per month was fixed based on the minimum wages paid to the cooly during the relevant point of time. This being the factum, the said approach cannot be said to be illogical. This apart, for arriving a total compensation, the Trial Court adopted the 11th multiplier and the multiplier was applied considering the age as well as the monthly income of the deceased victim. Accordingly, the total compensation of Rs.6,00,000/- was awarded on various heads. The interest at the rate of 7.5% per annum is also fixed by the Trial Court.

15. Considering the facts and circumstances as well as the reasonings recorded by the Trial Court for grant of compensation, this Court is of an opinion that there is no perversity or error in fixation of compensation based on the documents and evidences placed before the Trial Court. In view of the fact that there is no perversity in the judgment and decree, this Court is not inclined to interfere with the findings of the Trial Court as such.

16. The respondents are permitted to withdraw the amount deposited by the appellant in credit of O.S.No.64 of 2010 by filing appropriate application. Appellants are directed to settle the balance amount of compensation along with the interest in favour of the respondents within a period of 12 weeks from the date of receipt of a copy of this judgment. Consequently, the judgment and decree dated 21.09.2011 passed in O.S.No.64 of 2010 is confirmed and A.S.No.171 of 2013 is dismissed. No Costs.

Sd/-
Asst.Registrar

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Sub Asst. Registrar

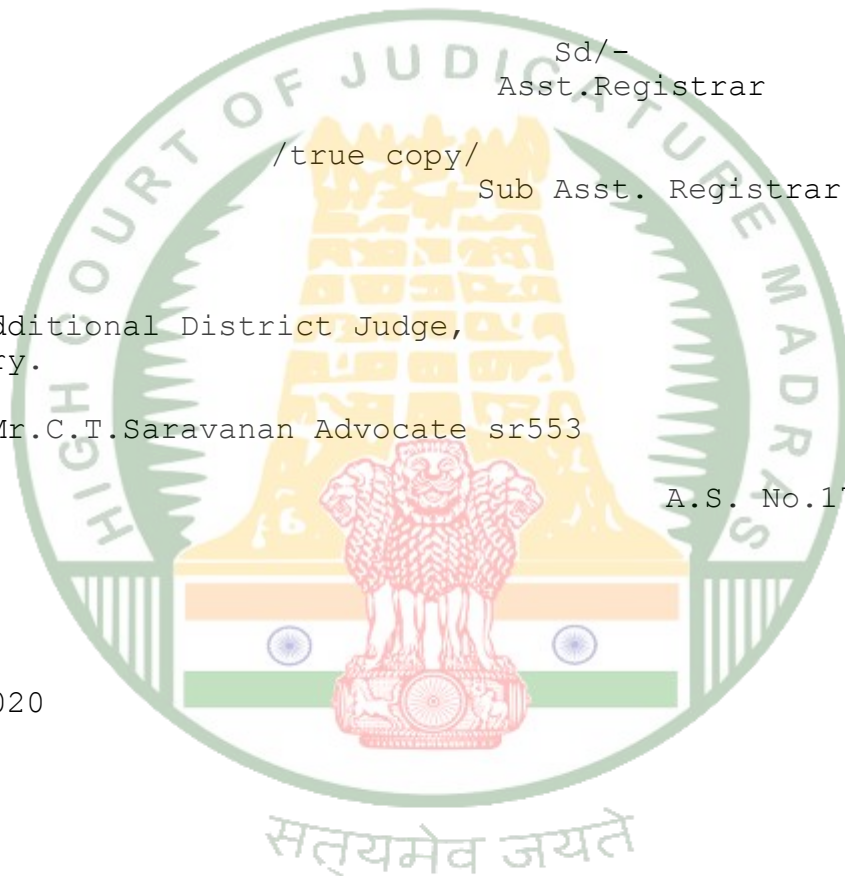
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To

The III Additional District Judge,
Pondicherry.

+1 cc to Mr.C.T.Saravanan Advocate sr553

A.S. No.171 of 2013

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