

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.25626 of 2013
(heard through VC)

R.Tamilarasi

...Petitioners

Vs

1. The Chief Engineer,
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Dharmapuri.
3. The Executive Engineer,
Tamil Nadu Electricity Board,
Dharmapuri.
4. The Executive Engineer,
O&M, Tamil Nadu Electricity Board,
Palacode 636 808.
5. The Joint Engineer,
O&M Office of the Assistant Engineer,
Tamil Nadu Electricity Board,
Palacode & Taluk,
Dharmapuri District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the fourth respondent, namely the Executive Engineer O&M Tamil Nadu Electricity Board, Palacode, dated 26.2.2013 in Ref.Se.Po./E.P./Pala/Va.Aa/Ko.Manu/No.219/13 and quash the same and consequently direct the respondents to pay a compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the petitioner for the death of her husband M.Raja, within a time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.V.Nicholas
For Respondents : Mr.M.Varunkumar, for R1 to R5

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O R D E R

The petitioner has sought for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 26.2.2013 passed by the fourth respondent, namely the Executive Engineer (O&M), Tamil Nadu Electricity Board, Palacode, in Ref.Se.Po./E.P./Pala/Va.Aa/Ko.Manu/No.219/13, quash the same and consequently direct the respondents to pay compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the petitioner for the death of her husband M.Raja, within the time frame to be stipulated by this Hon'ble Court.

2. The case of the petitioner is that her husband M.Raja, was an agriculturist and had been cultivating sugarcane, paddy and tamarind trees in his own lands in Suriyampatti village. There are also 45 coconut trees in his land. The said Raja was survived by his wife/petitioner and three children.

3. According to the petitioner, a high tension wire was running from Kottur village to Seeriyampatti village through Karagur village across the lands of the said Raja. According to her, it is the duty of the Electricity Board to inspect the said high tension lines periodically and take proper measures for the maintenance of the same. It is the further case of the petitioner that the staff of the electricity board did not inspect the lines periodically and failed to take precautionary measures, to avoid any live wire touching the coconut trees, and passing of current through the coconut trees. On 11.01.2013 at 7.30 a.m, while the petitioner was doing agricultural work in his land, inadvertently came near the coconut tree and since electric current was passing through the coconut tree, he got electrocuted, resulting in his death. At the time of his death, the husband of the petitioner was 40 years old and he was the sole breadwinner of the family. A case was registered in Crime No.3 of 2013 on the file of Marandahalli Police Station, based on the complaint of the Village Administrative Officer, Seeriyampatti village.

4. According to the petitioner, her husband was earning not less than Rs.20,000/- per month from the agricultural work. As the petitioner has lost the sole breadwinner of the family, and she has to take care of her children, namely, two daughters and a son, she has sent a representation to the respondents claiming a compensation of Rs.10,00,000/- and also for a suitable job in the respondents board. However, her request for compensation and a placement in the board was rejected by the Executive Engineer, Operation and Maintenance, Tamil Nadu Electricity Board, stating

that the electrocution was due to her husband's own negligence and therefore, the Board is not responsible for the death of her husband and consequently, they are not liable to pay any compensation. Challenging the said order, the present writ petition has been filed.

5. Upon notice, the respondents are represented by a counsel and a counter affidavit has been filed by the fifth respondent on behalf of the respondents. In the counter affidavit, it has been stated that, on the information of eye witnesses, the Village Administrative Officer (VAO) of the Seeriyampatti village, lodged a complaint before Marandahalli Police Station in Crime No.3 of 2013, stating that the deceased Raja was electrocuted, while he was cutting the branch of a coconut tree. According to the VAO, one of the branches of the coconut tree, was touching the 11 K.V. line wire, and that the husband of the petitioner got electrocuted and died on the spot. It is further stated in the counter affidavit, that no wire had been damaged/snapped and fell on the earth to say that the Board is negligent. They also denied the avocation and income of the deceased. It is their contention that the petitioner, due to his inadvertence, while cutting the branch of a coconut tree, got electrocuted and died on the spot and hence the board is not responsible for the incident, accordingly, they have rejected the claim of the petitioner for compensation and a placement.

6. Heard the learned counsel for the parties and perused the materials available on record.

7. The question that arises for consideration in this writ petition is, whether the respondents are negligent to cause the death of the husband of the petitioner and if so, what is the amount that may be payable as compensation for the bereaved family?

8. It is the admitted case of the petitioner that her husband was an agriculturist and on 11.01.2013 at 7.30 a.m, while he was working in the field, he got electrocuted and died. It is also admitted by both parties that a high tension wire is running from Kanavanahalli to Seeriyampatti village through Karagoor village across the land of the deceased for several years. It is also admitted by the respondents that they have to inspect the lines periodically for any snapping of wire. When a high tension wire is running across the lands of the deceased and the petitioner, it is the paramount duty of the respondents' board to inspect the same periodically for its maintenance. As per the submission of the learned counsel for the respondents, the deceased was electrocuted, due to one of the branches of the coconut tree, was touching the high tension wire. Had the respondents have periodically inspected the lines, it would not

have escaped their attention that one of the branches of the coconut tree was touching the high tension lines causing danger to the lives and in this case resulting the death of the deceased. Hence, because of the negligence on the part of the respondents in not maintaining the high tension wires properly, the life of a sole breadwinner was lost. Hence, this Court is of the opinion that the respondents have not properly inspected and maintained the high tension lines and that they are liable for the death of petitioner's husband.

9. As the negligence is fixed on the part of the respondents, the next question that arises for consideration is, what is the amount that may be payable as compensation to the petitioner and their children.

10. At the time of accident, age of the petitioner's husband was 40 years and was doing agricultural works in his field. According to the petitioner, her husband was earning not less than Rs.20,000/-, but she has not produced any document/material to prove the same. In the absence of any substantive materials to prove the avocation and the income of the deceased, for arriving at a just and reasonable compensation, reliance can be made to the decision of the Hon'ble Apex Court in Sarla Verma and others v. Delhi Transport Corporation and Another reported in 2009 (6) SCC 121. The said judgment states that, basically, only three facts need to be established by the claimants for assessing the compensation in the case of death, viz. (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. The issues to be determined to arrive at loss of dependency are: (i) additions/deductions to be made for arriving at the income; (ii) the deduction to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased.

11. Following the above judgment, a learned single Judge of this court in M.Gangachalam v. State of Tamil Nadu reported in 2018 (1) CWC 738, has ordered a compensation of Rs.6,06,750/- along with interest at the rate of 9% per annum from the date of writ petition till the date of payment, for the death of a minor daughter of the petitioner therein.

12. In the case on hand, as no material evidence was produced, to substantiate the avocation and income of the deceased, this court deems it fit to take Rs.4,000/- as monthly income of the deceased. If 1/4th of the monthly income is deducted towards the personal expenses of the petitioner, the net monthly income, to be taken into consideration, for arriving at compensation is Rs.3,000/-.

13. At the time of the accident, the age of the deceased was 40. Hence, as per the decision of Sarla Verma (quoted supra), for the age group of 36 to 40, the multiplier is 15. Hence for the loss of dependency, the following amount is arrived:

$$\text{Rs.}3,000 \times 12 \times 15 = \text{Rs.}5,40,000/-$$

14. In addition to the above, Rs.10,000/- is awarded towards funeral expenses of the deceased. As the children of the petitioner, have lost the love and affection of their father, a sum of Rs.50,000/- is awarded under the said head. Since the petitioner has lost her husband at the prime age of 33 years, a sum of Rs.50,000/- is awarded towards loss of consortium. In all, the petitioner is entitled to a sum of Rs.6,50,000/- (Rupees Six Lakh Fifty Thousand only), as just and reasonable compensation, for the death of her husband. For better understanding, the amount of compensation is tabulated as under:

Heads	Compensation Amount
Loss of dependency	Rs.5,40,000/-
Funeral Expenses	Rs.10,000/-
Love and Affection	Rs.50,000/-
Loss of Consortium	Rs.50,000/-
Total	Rs.6,50,000/-

15. In the result, the writ petition is partly allowed. The impugned order of the Executive Engineer O&M Tamil Nadu Electricity Board, Palacode, in Ref.Se.Po./E.P./Pala/Va.Aa/Ko.Manu/No.219/13, dated 26.2.2013, is set aside. The fourth respondent, namely he Executive Engineer, O&M, Tamil Nadu Electricity Board, Palacode-636 808, is directed to pay a sum of Rs.6,50,000/- to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. The above said amount will carry interest @ 6% per annum from the date of writ petition till the date of payment. The respondents are strictly comply with the direction within the stipulated time. However, there shall be no order as to cost.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Engineer,
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Dharmapuri.
3. The Executive Engineer,
Tamil Nadu Electricity Board,
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O&M, Tamil Nadu Electricity Board,
Palacode 636 808.
5. The Joint Engineer,
O&M Office of the Assistant Engineer,
Tamil Nadu Electricity Board,
Palacode & Taluk,
Dharmapuri District.

+1cc to Mr.V.Nicholas, Advocate, S.R.No.34305

+1cc to Mr.M.Varunkumar, Advocate, S.R.No.34083

W.P.No.25626 of 2013

PP(CO)
RV(09/11/2020)

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