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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29521 of 2018

Ponnusamy

... Petitioner

vs.

1.The Chairman and Managing Director,
TANGEDCO,
10th Floor, NPKKR Maaligai,
144, Anna Salai, Chennai-2.

2.The Superintending Engineer,
TANGEDCO,
Operation and Maintenance,
Vellore Road-Vengai,
Tiruvannamalai 606 604.

3.The Executive Engineer,
TANGEDCO,
Operation and Maintenance,
No.80, Kosapalayam, Arni Road,
Vandavasi 604 408.

4.The Assistant Executive Engineer,
TANGEDCO,
Operation and Maintenance,
Vandavasi-Melmaruvathur Road,
Chennavaram 604 408.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus to direct the respondents to pay adequate, fair and just compensation to the demise of Mr.P.Gowtham, petitioner's only son, due to the negligent act of the respondents in not maintaining the high tension electrical wire as per the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 in terms of the petitioner's representation dated 08.05.2018.

For Petitioner : Mr.S.R.Sundar

For Respondents: Mr.M.Varun Kumar
Standing Counsel



O R D E R

The petitioner seeks for a mandamus to direct the respondents to pay adequate, fair and just compensation to the demise of Mr.P.Gowtham, petitioner's only son, due to the negligent act of the respondents in not maintaining the high tension electrical wire as per the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 in terms of the petitioner's representation dated 08.05.2018.

2. The case of the petitioner in short is as follows:

He is a coolie worker. He has one daughter and one son. The son was studying in 8th standard. On 14.02.2018, his son along with his friend went to the terrace of a building at Sannadhi street, Vandhavasi, where he was going usually for daily tuition, to watch a local village temple function. Whiles, a high tension overhead electric wire, which was passing lower than the average horizontal and vertical clearance, came in contact with the petitioner's son and due to the electric shock, he died. The accident was informed to the local police station and FIR was registered in Crime No.77/2018. The police investigated the matter. A Postmortem Certificate was also given on 15.02.2018. The accident occurred solely due to the negligence of the respondent Board in not maintaining the minimum distance for the clearance of the overhead electric wire from the said building. Therefore, it is the obligation on the part of the Board to pay compensation. As per Regulation 60 of Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, an overhead line shall not cross over an existing building as far as possible by maintaining minimum clearance distance of 2.5 meters for vertical clearance and 1.2 meters for horizontal clearance from any accessible point. Since the respondent Department has not maintained such clearance, the petitioner is to be suitably compensated.

3. A counter affidavit is filed by the respondent, wherein it is stated that the deceased ought to have been careful by not touching the live wire, which is 3 feet away from the terrace building. It is further stated that the deceased person contributed his negligence while playing with his friend on the terrace and by knowingly touched the live wire to meet with fatal end. It is also stated that there is no negligence on the part of the Department and hence, they are not liable to pay any compensation.

4. Heard both sides.



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5. There is no dispute to the fact that the petitioner's son by name Gowtham died due to electric shock, when the live wire came in contact with him, while he was playing in terrace of the said building. The Death Certificate, the FIR registered by the police, the Post Mortem Report would clearly indicate that the death was due to electric shock. Regulation 60 of Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, deals with clearance from buildings of lines of voltage and service lines not exceeding 650 volts. It is specifically stated therein that a minimum horizontal clearance of 1.2 metres should be maintained, when an over headline line of voltage not existing 650 volts passes above or adjacent to the building. In this case, it is admitted by the respondents in their counter affidavit that the line was 3 feet away from the building. If such admitted distance or clearance is taken, certainly it is not in consonance with the required minimum horizontal clearance from the said building. Therefore, this Court is of the view that in not maintaining the required minimum clearance of live wire from the said building, the respondents are negligent and thus, bound to compensate the petitioner.

6. The deceased was a school going student, studying in eighth standard. He was 13 years at the time of death. He had a sister, who is an handicapped person. Whether the respondent Board is responsible and duty bound to pay compensation for death due to electric shock has already been considered by this Court in several decisions, out of which, one was passed by me in W.P.No.9766 of 2015, wherein at paragraph No.8, I have observed as follows:

"8. Under similar circumstances, this Court has considered the very same issue in W.P.No.30272 of 2017 dated 07.12.2018 and found at paragraph Nos.7 and 8 as follows:

"7.....The very same issue was considered by the learned Single Judge of this Court in W.P.No.15285 of 2013 dated 26.10.2016 reported in 2017(1) CTC 668, R.Kumar vs Electricity Department, wherein the learned Single Judge. The Secretary to Government, has observed at paragraph 6 and 7 as follows:

"6.The first question that needs to be addressed is whether the snapping of OH-LT live-wire due to heavy wind and rain, would amount to an "Act of God". It is needless to mention that prior to installation of live-wire, careful precaution must be taken to ensure that the electric wires which are prone to come in contact with the public if snapped in times of heavy rain and wind, are installed with utmost durability and endeavour to withstand such unforeseen calamity. Rigorous periodical inspection needs to be conducted to such installation to avoid



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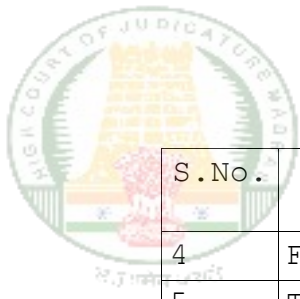
any untoward incident. Absence of the precaution would amount to negligence on the part of the respondents. It is common knowledge that rain tends to become heavy only after gradual and constant down-pour thereby turning into storm or gale wind, which are always predictable and hence precautions like cutting down the power supply to the openly installed live wires and transformer is essential during such untoward incidents.

7. In the case on hand, the live wire, to which, the deceased Victor came into contact, had snapped either due to poorly installed electric pole or lack of proper and periodical maintenance of the same. The respondents do not seem to have taken any precaution to cut down the power supply, when heavy rains and winds were anticipated. I do not find any of the reasonings put forth by the learned counsel for the second respondent in its counter affidavit as well as during his oral submissions to the effect that the accident was due to an "Act of God". On the other hand, the unfortunate incident is attributable due to the negligence on the part of the concerned officials of the second respondent."

8. I am in full agreement with the finding rendered by the learned Single Judge. Likewise, the other objections raised by the respondents that the writ petition is not maintainable, is also answered by this Court in a case reported in (2013) 2 MLJ 302, Arulmeri vs Superintendent Engineer, TNEB, where this Court has rejected the objection of the electricity board with regard to the maintainability of the writ petition. Therefore, this Court is of the view that the respondents are bound to compensate the petitioner."

7. Considering the above stated facts and circumstances, this Court is of the view that the respondents must pay a sum of Rs.9,30,000/- (Rupees Nine Lakhs Thirty Thousand only) as compensation to the petitioner under the following heads:

S.No.	Heads	Amount Rs.
1	Loss of income (Notional income: Rs.6500X12), Multiplier adopted is 15 (78000x15=11,70000) and 1/3 deducted as his sister is handicapped)	7,80,000
2	Loss of love and affection	1,00,000
3	Loss of Estate	15,000



S.No.	Heads	Amount Rs.
4	Funeral Expenses	25,000
5	Transport Expenses	10,000
	Total	9,30,000/-

The respondents shall effect the abovesaid payment within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The Chairman and Managing Director,
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Chennavaram 604 408.

+2cc to Mr.K.Moorthy, Advocate SR.23323
+1cc to Mr.M.Varunkumar, Advocate SR.23946

W.P.No.29521 of 2018

AK(CO)
CB(09/07/2020)