



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

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**W.P. (MD)No.14644 of 2018
and W.M.P(MD)13209 of 2018**

Suja

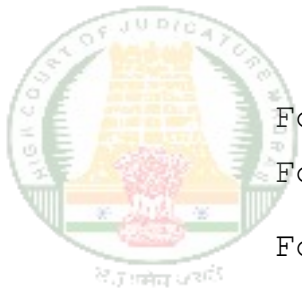
... Petitioner

-VS-

1. The Principal Secretary to Government,
Energy Department,
St. George Fort,
Chennai.
2. The Chairman,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TANGEDCO,
Parvathi Puram,
Nagercoil.
4. The Executive Engineer,
- Distribution,
TANGEDCO,
Thuckalay,
Kanyakumari District.
5. The Junior Engineer,
TANGEDCO,
Thuckalay,
Kanyakumari District.
6. The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 5 to pay a compensation of Rs.25,00,000/- to the petitioner for the death of her husband Joseph in electrocution.



For Petitioner	: Mr.C.T.Perumal
For Respondents 1 & 6	: Mr.M.Murugan Government Advocate
For Respondents 2 to 5	: Mrs.M.Parameswari for M/s.S.M.S.Johny Basha

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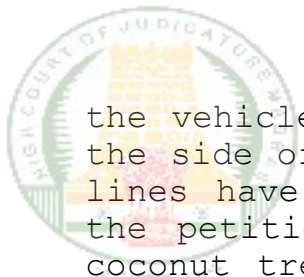
ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents 1 to 5 to pay a compensation of Rs.25,00,000/- to the petitioner for the death of her husband Joseph in electrocution.

2.Heard the learned Counsel appearing for the petitioner, Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 and 6 and Mrs.M.Parameswari, learned Counsel appearing for the respondents 2 to 5.

3.The learned Counsel appearing for the petitioner would submit that the husband of the petitioner was working as a heavy vehicle driver in Bhabi Steels at Swamiyar Madam, Kattathurai, Kanyakumari District and drawing a salary of Rs.21,000/- per month. While so, on 29.12.2014, when he drove a container lorry bearing Registration No. TN-05-S-4336 from Marthandam towards Nagercoil, in Karaikandarkonam, a coconut tree which was touching the high tension wire, fell on the container and as a result, the petitioner's husband died on the spot. The sixth respondent registered a case in Crime No.1045 of 2014 on 30.12.2014 under Section 304(A) I.P.C. and subsequently, on 18.04.2015 the sixth respondent filed closure report as action dropped stating that the death was due to electrocution. According to the petitioner, the coconut tree which fell on the container was already protruding outside the compound wall and almost about to touch the high tension wire. The respondents 1 to 5, who are duty bound to ensure that the electric cable does not endanger the life of general public, did not care about the same which caused the accident. Therefore, the respondents 1 to 5 are liable to pay compensation for their negligent act. It is further submitted that the petitioner's husband is the only breadwinner and the petitioner is having a female child aged about 17 years. Therefore, the petitioner made so many representations seeking compensation and the last one of which is dated 22.06.2018. Since the respondents 1 to 5 have not considered the same, the petitioner has come forward with the present Writ Petition.

4.The learned Counsel appearing for the respondents 2 to 5 would submit that the electrocution took place in the main road where the container lorry dashed on the coconut tree which fell on



the vehicle and the live 11 KV line and that there was no fault on the side of the respondents 2 to 5. She further submitted that the lines have been properly maintained by the respondents 2 to 5 and the petitioner's husband only dashed on the coconut tree and the coconut tree fell on the HT line on the opposite side of the road and therefore, the petitioner's husband is responsible for dashing the vehicle on the coconut tree. The learned Counsel appearing for the respondents 2 to 5 by relying upon a judgment of the Hon'ble Supreme Court reported in 2000 (4) SCC 543 and 2005 (6) SCC 156 submitted that Writ Petition is not a proper remedy for fixing the compensation and hence, the petitioner ought to file a suit only. However, the learned Counsel for the respondents 2 to 5 would submit that if the petitioner is willing to accept the no-fault liability, the respondents 2 to 5 are willing to pay a sum of Rs.2,00,000/- which is admissible as per the proceedings of the TANGEDCO. She would further submit that the compensation for fatal has been increased from Rs.2,00,000/- to Rs.5,00,000/- from 16.10.2019 but the accident in the present case took place in the year 2014 and hence, the petitioner may not be eligible for more than that of Rs.2,00,000/-.

5.In reply, the learned Counsel appearing for the petitioner would submit that the petitioner is willing to accept the no-fault liability.

6.Even though as contended by the department that the amount of Rs.5,00,000/- is payable only after 2019 and not prior to that, this Court by exercising the discretion and also taking note of the fact that the petitioner is 39 years old having a girl child of marriageable age and that the petitioner has accepted the no-fault liability and also give a quietus to the litigation, directs the respondents 2 to 5 to grant a sum of Rs.3,50,000/- instead of Rs.2,00,000/- as compensation to the petitioner, within a period of two months from today. If the amount of Rs.3,50,000/- is not paid within the stipulated time, it will carry interest at the rate of 12% per annum from the date of filing of the Writ Petition. This decision is rendered based on the peculiar facts and circumstances of this case and it cannot be treated as precedent.

7.With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

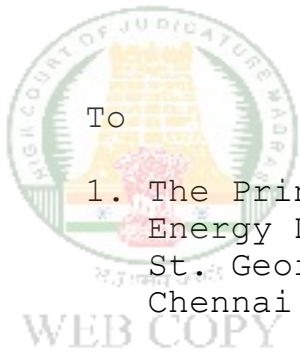
Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



To

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5. The Junior Engineer,
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Thuckalay,
Kanyakumari District.

+1cc to Mr.R.Murugan, Advocate, SR.No.23078.
+1cc to the Spl GP, SR.No.23160.

W.P(MD)No.14644 of 2018
26.11.2020

PV(CO)
CS(29.01.2021) 4P 8C