



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2020

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No. 8759 of 2017

Mohamed Ali @ Mohamed @ Ashok

... Petitioner

(Petitioner name was amended vide Court order dated 17.08.2020 in W.M.P. (MD) No. 8557 of 2020 in W.P. (MD) No. 8759 of 2017)

Vs.

1. The Superintending Engineer/Distribution,
TANGEDCO, (Tamilnadu Generation and
Distribution Corporation Ltd),
K. Pudur, Madurai.
2. The Executive Engineer/General,
Officer of the Executive Engineer/General,
K. Pudur, Madurai-7.
3. The State represented by
The District Collector,
Office of the District Collector,
Madurai.
4. The Principal Secretary,
Health Department,
Government of Tamil Nadu,
Chennai.

... Respondents

(R4 *suo motu* impleaded by this Court as per order in W.P. (MD) No. 8759 of 2017, dated 25.08.2020)

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the respondents to pay fair and reasonable amount of compensation for the Electric shock to the petitioner's wife by name Visalatchi, petitioner's daughter by name Hathija @ Durga Shree and sister's son of the petitioner's wife by name Madurai Veeran within the time stipulated by this Court.

(The name of the petitioner's daughter was amended as per order dated 17.08.2020 in W.M.P. (MD) No. 8557 of 2020 in W.P. (MD) No. 8759 of 2017)



For Petitioner : Mr.R.Alagumani
For R1 and R2 : Mrs.M.Rajeswari,
for Mr.S.M.S.Johny Basha.
For R3 and R4 : Mr.S.Angappan,
Government Advocate.

WEB COPY

ORDER

Heard the learned counsel appearing for the petitioner, the learned Standing Counsel for the TANGEDCO and the learned Government Advocate appearing for the third and fourth respondents.

2.The writ petitioner was convicted for having committed the offence under Section 302 IPC and was in prison from 2006 to 2018. He married one Visalatchi and they have one daughter by name Durga Shree. The petitioner's daughter is now known as Hathiya @ Durga Shree.

3.On 10.12.2014, at about 11.30 a.m., the petitioner's daughter, who was then aged about one year and six months, was playing near their house along with her cousin by name Madurai Veeran. They had come in contact with a live electric wire on the ground. The petitioner's daughter suffered electrocution. The petitioner's wife Visalatchi rushed to rescue her. She also sustained electric shock. The cousin Madurai Veeran also suffered electric shock. All the three were rushed to Government Rajaji Hospital. The petitioner's wife took treatment as in-patient for three days. The petitioner's daughter had suffered disfigurement on her right cheek. This issue had been reported in the media also. A copy of the News Paper clipping has been enclosed in the typed-set of papers. In this regard, crime No.1274 of 2014 was also registered on the file of the Thallakulam Police Station.

4.The petitioner's house is located near to the Ulaga Tamil Sangam building. The building belongs to the District Administration. Since the construction activities were then going on, a heavy vehicle deployed by the building contractor had negligently hit the over-hanging electric wire causing it to be snapped. Unfortunately, the current supply was not immediately disconnected. The children without being aware of the same, had accidentally come in contact with the live wire and that is how the accident had occurred. A mere perusal of the materials on record would clearly indicate that the petitioner's family was not at all at fault.

5.The learned Standing Counsel for TANGEDCO was more focused in washing their hands of responsibility. The learned standing counsel would claim that the contractor engaged by the District



Administration was responsible for this snapping of the live wire and that the TANGEDCO cannot be blamed for the same.

6. Of course, the learned Standing Counsel is substantially right. But then, safety arrangements should have been in such a way that the electricity supply gets automatically disconnected once the wire gets snapped. If no other Public Authority had been made as respondents in this case, I would have not hesitated to fasten liability on TANGEDCO. But in this case, the District Administration has also been shown as the third respondent.

7. It is evident from the materials on record that the contractor employed by the third respondent had been responsible of the snapping of the wire. Therefore, the third respondent obviously has to assume the liability. The consequence of the negligence of the contractor has to necessarily fall only on the principal. In this case, the principal happens to be the District Administration.

8. The learned counsel appearing for the petitioner has drawn my attention to more than one decision of the Hon'ble Supreme Court to drive home the point that for such tortious negligence, compensation can be awarded even in writ proceedings. The petitioner's counsel would state that the petitioner's child has to be given plastic surgery treatment.

9. I therefore, *suo motu* impleaded the Principal Secretary, Health Department, Government of Tamil Nadu, Chennai as fourth respondent in this writ petition. It is the duty of the State to ensure that the petitioner's child is given the best possible plastic surgery treatment in any Government hospital, so that the facial disfigurement is effaced.

10. It is open to the petitioner to submit a request in this regard to the State Government directly and the said request will be immediately acted upon. I make it clear that any laxity in this regard will be viewed strictly.

11. But that alone cannot be the end of the matter. The petitioner's child had undergone considerable pain and suffering for no fault of her. Therefore, some financial compensation also has to be awarded. The petitioner's wife also was an in-patient for about three days. Therefore, apart from the aforesaid direction to the State Government to provide the best possible plastic surgery treatment to the petitioner's daughter, I also direct the Government to pay a sum of Rs.2,00,000/- to the petitioner's daughter and a sum of Rs.25,000/- to the petitioner's wife Visalatchi. Deposit in favour of the petitioner's daughter will be created immediately and the petitioner's daughter can withdraw the said amount upon her attaining the age of 18 years. Of course, the petitioner's wife Visalatchi will be shown as the guardian for the daughter and she



will be entitled to withdraw the accrued interest once in six months. This payment of compensation to the petitioner's wife and daughter will be made, within a period of eight weeks from the date of receipt of a copy of this order.

13. The writ petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ / 2020

Sub Assistant Registrar (CS)

gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Chief Secretary to Government,
Fort St. George, Chennai - 9.

2. The District Collector,
Office of the District Collector,
Madurai.

3. The Principal Secretary,
Health Department,
Government of Tamil Nadu,
Chennai.

+1 CC to M/s.GP (SR-14967[F] dated 26/08/2020)

W.P. (MD) No. 8759 of 2017

db (CO)

TR (07.09.2020) 4P 5C