



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2020

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.141 of 2017

P.Kalanjiyam

... Petitioner

Vs.

1.The Chairman,
TamilNadu Electricity Board,
No.800, Anna Salai, Chennai - 6002.

2.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

3.The Assistant Executive Officer,
(Distribution),
Tamilnadu Electricity Board,
Kadayanallur, Tirunelveli District.

4.The Junior Engineer,
(Distribution),
Tamilnadu Electricity Board,
Rayagiri, Sivagiri Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned order passed by the 2nd respondent in க.எண்.0155198-381-நிபி-4/உ.2.கேர.மின் விபத்து-2016, dated 14.07.2016, quash the same and consequently direct the respondents to pay a compensation of Rs.25,00,000/- to the petitioner towards the death of her husband due to electrocution.

For Petitioner : Mr.S.S.Thesigan

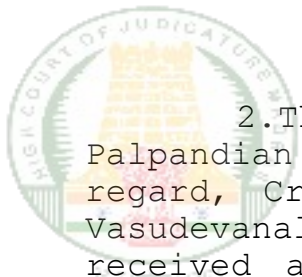
For Respondents: Mrs.M.Rajeswari,

For Mr.S.M.S.Johnny Basha

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>



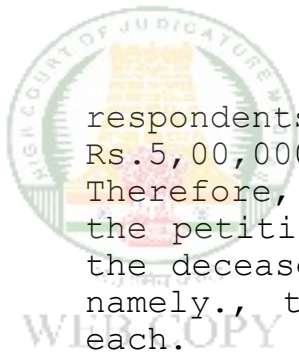
2.The petitioner is the wife of one Palpandian. The said Palpandian had died due to electrocution on 04.12.2015. In this regard, Crime No.279 of 2015 was registered on the file of the Vasudevanallur Police Station. The petitioner is said to have received an ex-gratia of a sum of Rs.4,00,000/- from the State Government and a sum of Rs.2,00,000/- from the Prime Minister's relief fund.

3.The petitioner has filed this writ petition for directing the respondents to pay a sum of Rs.25,00,000/- as compensation. The respondents have filed a counter affidavit opposing the prayer. The respondents have raised two fold objections in the counter. The first objection is based on the decision of the Hon'ble Supreme Court reported in **[(2000) 4 SCC 539 (P.Anand Gajapathi Raju V. P.V.G.Raju)]**. The Hon'ble Supreme Court in the said decision has held that when a disputed question of fact arises and there is clear denial of any tortious liability, seeking remedy under Article 226 of the Constitution of India may not be proper. In this case, the petitioner claims that her husband was earning about Rs.3,00,000/- per annum and in support of the same, the invoice issued by Dharani Sugars Limited, on 31.01.2015 has been enclosed.

4.The learned standing counsel states that from this one may not be in a position to come to the conclusion that the petitioner's husband was earning Rs.23,000/- per month. Since the income that was earned by the deceased at the time of accident is under dispute, I am of the view that the petitioner will have to establish the same only before the jurisdictional Court. The Writ Court may not be in a position to ascertain the petitioner's husband's income level at the time of his demise.

5.But on this ground, I am not inclined to nonsuit the petitioner. The TANGEDCO have issued Court Proceedings No.6, dated 16.10.2019 in which the ex-gratia payment payable on compassionate ground for fatal cases has been enhanced from two lakhs to five lakhs.

6.The learned standing counsel would of course contend that this proceedings having been issued on 16.10.2019, cannot apply to an accident that took place in the year 2015. This being a beneficial proceeding should definitely apply to all pending cases. The respondents had not made any payment to the petitioner till date. It is obvious that the petitioner's husband died due to electrocution. It is not as if the petitioner's husband was negligent, he was walking on the field when he came across a live wire that had fallen on the ground. The respondents ought to have made appropriate arrangements to ensure that electricity supply got disconnected the moment, the transmission wire snapped. Therefore, I have no difficulty in coming to the conclusion that but for the negligence of the respondents, the petitioner's husband would not have died. Considering the materials placed by the petitioner, the



respondents cannot deny their liability to pay a sum of Rs.5,00,000/- as the ex-gratia payment to the petitioner herein. Therefore, respondents are directed to pay a sum of Rs.5,00,000/- to the petitioner as compensation. The petitioner who is the wife of the deceased will take a sum of Rs.3,50,000/- and other legal heirs namely, two daughters and a son will take a sum of Rs.50,000/- each.

7.I make it clear that respondents cannot seek any set off against ex-gratia payment made by the State Government and the Central Government. The liability being that of the respondents cannot now be diluted by the payment made by the State Government and the Central Government on compassionate ground.

8.I also make it clear that the receipt of compensation pursuant to the direction given by this Court will not come in the way of the writ petitioner from filing a suit for claiming enhanced compensation. The writ petitioner is entitled to exclude the period, during which the writ petition was pending for calculating the limitation. The respondents will pay the said amount to the petitioner within a period of sixteen weeks from the date of receipt of a copy of this order. The writ petition is allowed on these terms. No costs.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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

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Tirunelveli District.

+1 CC to M/s.S.S. THESIGAN, Advocate (SR-13553[F]
dated 04/08/2020)

W.P. (MD) No.141 of 2017
31.07.2020

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SDS (12.08.2020) 4P-6C