

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM

THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P.No.12870 of 2015

V.Lakshmi,
W/o.T.Velu

... Petitioner

Vs

1.The Chief Secretary,
Government of Tamilnadu,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

3.The Assistant Executive Engineer,
Corporation of Chennai,
Zone No.4, T.H.Road,
Chennai - 600 021.

4.The Assistant Engineer,
Tamilnadu Electricity Board,
Zone No.4, Circle-36 Office,
Chennai - 600 021.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents jointly and severally to pay the sum of Rs.10,00,000/- as compensation for the death of the minor son of the petitioner namely V.Venkatesan due to the electrocution took place on 01.03.2014.

For Petitioner : Mr.T.Ramkumar

For R1 : Mr.M.D.Ilayaraja
Government Advocate

For R2 & R3 : Mr.M.Ganesan

For R4 : Mr.P.Gunaraj

ORDER

This writ petition has been filed for a mandamus to direct the respondents to jointly and severally pay a sum of Rs.10,00,000/- as compensation for the death of the petitioner's minor son namely V.Venkatesan, who died due to electrocution because of leakage of electricity of the installation maintained by the 2nd & 3rd respondents herein.

2. The accident is said to have taken place on 01.03.2014 at about 8.15 p.m., near Mr.Francis House. It is the case of the petitioner that the deceased (Minor V.Venkatesan) came in contact with the lamp post and was electrocuted, and fell unconscious and was immediately rushed to Government Stanley Hospital, where the Doctors after examining him, declared him dead on arrival.

3. The petitioner thereafter filed a complaint which culminated in FIR No.181 of 2014 under Section 304(A) of IPC and sum of Rs.1,00,000/- was released by the Chief Ministers' ex gratia on 09.10.2014 to the petitioner by the District Collector.

4. It is the case of the petitioner that the death was due to carelessness, negligence and lack of maintenance of electric lamp post on the part of the respondents and therefore the petitioner is entitled for compensation.

5. The learned counsel for the 2nd & 3rd respondents has filed counter. In Paragraphs 3 & 4 of the counter it has been stated as under:-

"3. I respectfully submit that the contention of Petitioner is not correct. The said lamp post which is available near to Thiru.Francis House where the Petitioner's son got electrocuted has been maintained properly and there is no leakage of electricity in that post. No Public complaint was also received stating that the lamp post was defective. Further, there was a TNEB Mini Pillar Box near the lamp post which remained without one side door. The Victim probably while playing near to it would have got contact to the live wire and electrocuted. Thus, there is no leakage in the lamp post.

4. I respectfully submit that the contention of the Petitioner is not true. No complaints have been received stating that the lamp post was defective. After the incident also lamp post was checked and

verified and there were no leakage of current found in the lamp post."

6. Mr.P.Gunaraj, learned counsel for the 4th respondent submits that the writ petition is not maintainable as against the 4th respondent. He submits liability if any, can be fastened only against the 3rd respondent/Assistant Executive Engineer, Corporation of Chennai, Zone No.4, T.H.Road, Chennai-600 021 and not on the 4th respondent/Assistant Engineer, Tamilnadu Electricity Board, Zone No.4, Circle-36 Office, Chennai - 600 021.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the respondents.

8. The cause of the death of the petitioner's son, namely, V.Venkatesan, is not in dispute. The negligence on the part of the 2nd and 3rd respondents is palpably visible and requires no further proof. The responsibility for maintaining the electric pillar box was that of the 3rd respondent while the responsibility of maintaining the electric lamp post was that of the 2nd respondent. If there was a leakage of electricity through the electric lamp post maintained by the 2nd respondent, the fuse in the electric pillar box should have snapped the power supply. However, that did not take place, as a result of which, a precious life of the petitioner's son aged about 12 years was lost tragically.

9. Therefore, I am of the view that both the 2nd and 3rd respondents are jointly and severally liable to compensate the petitioner for the loss of her son. For awarding compensation, the yardstick adopted by the Motor Vehicle Accident Claims Tribunal and the Courts under the provisions of the Motor Vehicles Act, 1988 appears to offer a good guide. The Courts there award just compensation to the victims of motor vehicle accident or to the dependents of the deceased who died in a motor accident.

10. If the formula for awarding compensation to the petitioner based on the case laws therein is adopted, the compensation to be paid to the petitioner would be much higher. The petitioner has claimed a compensation of Rs.10 lakhs only. The petitioner has already received a sum of Rs.1 lakh from the Chief Ministers's ex-gratia. Therefore, I am satisfied that the petitioner has asked for a reasonable compensation.

11. Under these circumstances, I hold that the offices of the 2nd and 3rd respondents jointly or severally liable to pay compensation to the petitioner. Since the petitioner has prayed for a sum of Rs.10 lakhs as compensation and since she has received a sum of Rs.1 lakh as Chief Minister's ex-gratia, the offices of the 2nd and 3rd respondents are directed to transfer a sum of Rs.4,50,000/- each together with interest at 7.5% per annum from the date of representation of the petitioner for compensation till the actual date of payment. Such payment shall be made directly into the petitioner's bank account, within a period of eight weeks from the date of receipt of a copy of this order.

12. The petitioner is therefore directed to furnish the bank account details, her address proof and identity card (such as Aadhar Card) along with a copy of this order to the offices of the 2nd and 3rd respondents for the purpose of transferring the compensation, within the aforesaid period. The respondents shall ensure this order is complied without any deviation.

13. Accordingly, this Writ Petition stands allowed with the above observations. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary,
Government of Tamilnadu,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

3.The Assistant Executive Engineer,
Corporation of Chennai,
Zone No.4, T.H.Road,
Chennai - 600 021.

4.The Assistant Engineer,
Tamilnadu Electricity Board,
Zone No.4, Circle-36 Office,
Chennai - 600 021.

+1cc to Mr.T.Ram Kumar, Advocate Sr.6336
+1cc to Mr.M.Ganesan, Advocate Sr.5245
+1cc to the Government Pleader Sr.5738

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