



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.1220 of 2019

G.Panchamirtham

...Petitioner

-Vs-

- 1.The Chairman
Tamil Nadu Electricity Board
(TANGEDCO), Anna Salai
Chennai 600 002.
- 2.The Superintending Engineer
Tamil Nadu Electricity Board
Gingee Taluk, Villupuram District.
- 3.The Junior Engineer
Tamil Nadu Electricity Board
Gingee Taluk, Villupuram District.
- 4.T.Iyappan
- 5.G.Subramani
- 6.The Government of Tamil Nadu
Rep.by its Principal Secretary to Government
Energy Department, Secretariat, Chennai-9.
(R6 impleaded vide order dated 05.10.2021
Made in WMP No.10180/2021 in W.P.No.
1220/2019 by NAVJ)

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs Only) as compensation to the petitioner for their vicarious and joint liability resulting in the death of the petitioner's husband Late G.Perumal due to electrocution.



WEB COPY

For Petitioner : Mr.R.Kandasamy
For Respondents : Mr.L.Jai Venkatesh
Standing Counsel - for RR 1 to 3
Mr.P.Srinivas - for R4
Mr.K.Perumalsamy - for R5
Mr.A.Selvendran,
Government Advocate - for R6

O R D E R

This writ petition has been filed seeking for compensation of a sum of Rs.20,00,000/- against the respondents for the death caused to the husband of the petitioner due to electrocution.

2. The case of the petitioner is that her husband was an agriculturist and he was eking his livelihood only from the income earned by doing agricultural labour work. On 28.09.2016, the husband of the petitioner came into contact with an electric fence that was illegally erected around the property by the fifth respondent and as a result of the same, he died due to electrocution. The final opinion in the postmortem certificate says that the husband of the petitioner died due to effects of electric shock.

3. On the complaint given by the sister-in-law, a FIR came to be registered on 02.10.2016 as a 'man missing' case in Crime No.480 of 2016 since no one was aware that the petitioner's husband died due to electrocution. Everyone thought that he was missing. In the course of investigation, the real cause of death was ascertained and the FIR was altered for offences under Sections 304(ii) and 201 IPC. It is also brought to the notice of this Court that the investigation has been completed and final report was also filed before the concerned Court.

4. The petitioner has approached this Court by complaining against the official respondents to the effect that the electric fencing was put up by the fifth respondent only with the help of the third respondent and the concerned lineman. Therefore, according to the petitioner, the official respondents are vicariously liable for the gross negligence of the fifth respondent and hence the petitioner has sought for payment of compensation.



5. The respondents 1 to 3 have filed a counter affidavit. The relevant portion in the counter affidavit is extracted hereunder.

WEB COPY

“ 7. I submit that in this circumstances, the 3rd respondent has completely denied the petitioner's complaint that this incident had happened only due to the illegal activities of 5th respondent and 2 others by providing unauthorized electric fence in the leased out land of 4th respondent so as to protect the crops from wild boar, and not due to the negligence (or) unlawful activities of the 3rd respondent. Further no information received regarding this matter (or) No FIR / Enquiry received from the police official to the 3rd respondent's office and the 5th respondent himself confessed on police enquiry that in order to protect the crops from the disturbance of wild boar, he had put an electric fence in the 4th respondent land with the help of other 2 members. Hence the respondents 1, 2 and 3 is not liable to pay the compensation to the petitioner. I submit that the above averments are totally false and only with a view to grab money of the respondent Board, the petitioner has filed the above vexation litigation against the Board with malafide intention and there is no truth in it. Hence this Hon'ble Court may be pleased to dismiss the above writ petition with costs.”

6. Heard Mr.R.Kandasamy, learned counsel appearing for the petitioner, Mr.L.Jai Venkatesh, learned Standing Counsel for respondents 1 to 3, Mr.P.Srinivas, learned counsel for the fourth respondent, Mr.K.Perumalsamy, learned counsel for the fifth respondent and Mr.Selvendran, Government Advocate for the sixth respondent.

7. The main plea that has been raised by the Electricity Department is that they do not have any role to play in the electric fencing that was illegally put up by the fifth respondent and therefore, they cannot be made vicariously liable. The fourth respondent is the owner of the property and according to him, it was leased to the fifth respondent and the fifth respondent has proceeded to put up electric fence with a view to protect the crops from wild boar.



8. It is true that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India can grant compensation in a case which does not involve disputed questions of facts. However, in cases where there are disputed questions of facts and it requires appreciation of evidence, only the competent Civil Court can try such cases and decide with regard to the compensation payable by the aggrieved persons.

9. In the present case, the fifth respondent has put up the electric fence and it is not possible for this Court to render a finding that it was done with the help of the third respondent. This is in view of the fact that the respondents 1 to 3 have categorically denied this allegation in their counter affidavit. In view of the same, it is very difficult for this Court to fix the liability against respondents 1 to 3 and the sixth respondent. The case involves factual disputes and it can only be resolved before the competent civil Court.

10. The petitioner who was aged about 35 years, lost her husband at a crucial period in her life and she has to bring up three minor sons and take care of the aged mother-in-law. Therefore, this Court deems it fit to order some interim compensation to the petitioner. The TANGEDCO, through Board Proceedings No.6 dated 16.10.2019 has fixed compensation amounts that are payable in cases of fatal and non-fatal cases. This compensation is paid to the dependants of the deceased, who suffers fatality due to electrocution. The amount of compensation was enhanced to Rs.5,00,000/- through this Board Proceedings. The proceedings did not specifically make a mention that this compensation amount is payable only in cases of negligence on the part of the Department. It merely states that the compensation is paid for electrical accidents. The facts of the present case clearly fall under the category of electrical accidents since the fifth respondent had erected the electric fence only by utilizing the service connection given to him by respondents 1 to 3. Admittedly, no permission was given to him by the respondents and it is a case of illegal electric fencing. Such electric fencing is done by some of the agriculturists to prevent wild boar destroying the crops and unfortunately sometimes it leads to fatal accidents for human beings also. It is quite unfortunate that the husband of the petitioner became a victim and he died leaving behind the petitioner, her three minor sons and an aged mother.

11. Taking into consideration the facts and circumstances of the case, the Board Proceedings dated 16.10.2019 and also in order to provide succor to the petitioner to meet her expenses,



this Court deems it fit to direct the respondents 1 to 3 to pay a compensation of Rs.3,00,000/- (Rupees Three Lakhs only) to the petitioner. It is made clear that this compensation is awarded not on the ground of negligence on the part of respondents 1 to 3 and it is being awarded by taking into consideration the Board Proceedings and in order to give some relief to the petitioner who is otherwise starving.

12. This Court is aware of the fact that the interim compensation granted in favour of the petitioner is inadequate. Therefore, liberty is granted to the petitioner to proceed further against the fourth and fifth respondents and seek for compensation before the competent Civil Court. As and when the Civil Suit is filed by the petitioner, the time taken due to the pendency of this writ petition shall be given account under Section 14 of the Limitation Act.

13. This writ petition is disposed of with a direction to the respondents 1 to 3 to pay a compensation of Rs.3,00,000/- (Rupees Three Lakhs Only) to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

KST
To

- 1.The Chairman, Tamil Nadu Electricity Board
(TANGEDCO), Anna Salai, Chennai 600 002.
- 2.The Superintending Engineer
Tamil Nadu Electricity Board
Gingee Taluk, Villupuram District.
- 3.The Junior Engineer
Tamil Nadu Electricity Board
Gingee Taluk, Villupuram District.
- 4.The Principal Secretary to Government
Energy Department, Secretariat, Chennai-9.



+1 CC to Mr.R.Kandasamy, Advocate sr 54787
+1 CC to Mr. Jai Venkatesh, Advocate sr 54576
+1 Cc to Mr.P.Srinivas, Advocate sr 54445.

WEB COPY

W.P.No.1220 of 2019

GP(CO)
SP(10/11/2021)