

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 12163 of 2016

S.Malar,
W/o.Subbarayan

... Petitioner

Vs

1. The Assistant Engineer (O & M),
Tamil Nadu Generation Electricity
and Distribution Corporation,
TANGEDCO,
Pudupettai, Panruti Tk,
Cuddalore District.
2. The Assistant Executive Engineer (O & M),
Tamil Nadu Generation Electricity
and Distribution Corporation,
TANGEDCO,
Poongunam, Panruti Tk,
Cuddalore District.
3. The Executive Engineer (O & M),
Tamil Nadu Generation Electricity
and Distribution Corporation,
TANGEDCO,
Poongunam, Panruti Tk,
Cuddalore District.
4. The Superintending Engineer (O & M),
Tamil Nadu Generation Electricity
and Distribution Corporation,
TANGEDCO,
Capper Hills, Cuddalore-4.
5. The Chairman-cum-Managing Director,
Tamil Nadu Generation Electricity
and Distribution Corporation,
TANGEDCO,
No.144, Anna Salai,
Chennai-600 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to give compensation of Rs.60,00,000/- (Rupees sixty lakhs only) with interest at the rate of 12% per annum

from the date of filing this petition till the realisation of the amount, to the petitioner's family due to the negligence committed by the respondents.

For Petitioner : Mr.D.Kalaiselvi
For Respondents : Mr.M.Varunkumar

ORDER

The petitioner has filed the present writ petition for issuance of Mandamus, to direct the respondents to pay compensation of Rs.60,00,000/- with interest at the rate of 12% per annum from the date of filing this petition till the realisation of the amount, to her family due the negligence committed by the respondents.

2. The petitioner's son (S.Prathas) died due to electrocution on 26.03.2015 when he went to his sugarcane field for irrigating water to their land at Survey No.48/1. The body of the petitioner's son was found by the villagers and it was stated that the petitioner's son body was thrown after he was electrocuted and that he died due to electric burn energy. This fact also stands confirmed by the Accident Register dated 26.03.2015 and Final Post Mortem Report dated 05.02.2016.

3. It is the case of the petitioner that the petitioner's only son was a well-qualified person and was earning a sum of Rs.7,500/- per month, at the time of death, apart from earning income from the agriculture property for cultivation. The learned counsel for the petitioner submits that the petitioner's son had also applied for the post of Village Administrative Officer and also applied for writing UPSC examination, but unfortunately died due to the accident. He submits that the petitioner is entitled to compensation.

4. The writ petition is defended by the learned counsel for the respondents on the ground that the petitioner is not entitled to any compensation under the Writ Jurisdiction a writ petition and the appropriate remedy will be to file a Civil Suit as the Writ Courts cannot decide the disputed question of fact relevant to the quantum of compensation to be paid to the petitioner on account of the death alleged due to the electrocution. It is further submitted that the petitioner's son was negligent and that if there was any snapping of live wire, there will be an automatic tripping of the transformer. Further, there was no such tripping and the board used to fix copper fuse wire as the feeder fuse, but the petitioner's father changed the existing copper fuse with aluminium fuse wire and therefore, there was no chance of tripping of transformer resulting in the death, when there was a snapping of live wire.

5. The facts are not in dispute that the electricity wire was snapped and that the petitioner's son (S.Parthas) died due to electrocution. Therefore, the petitioner is entitled for compensation for the death caused due to the negligence on the part of the respondents for not maintaining their transformers and the electricity cables which had resulted in the death of the petitioner's son.

6. The petitioner has filed Additional Typed Set of Papers as per which the petitioner's son was earning a sum of Rs.7500/- per month. The certificate has procured for getting compensation. Veracity of this certificate cannot be determined in a writ proceedings.

7. However, considering the fact that the petitioner's son had already completed B.B.A. Course, it is fit to conclude that he would have notionally earned some amount of money for the purpose of determining compensation.

8. All the same considering the fact that the petitioner's son was a graduate who had potential to earn money, it would be fair to conclude that the petitioner would have earned a notional income of Rs.7,500/- per month for the purpose of determining the compensation.

9. In this connection, it would be useful to apply the method adopted under the provisions of the Motor Vehicles Act, 1988 for awarding compensation and the case laws settled therein for the accident is of the year 2008.

10. The Hon'ble Supreme Court in the case of Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735, has considered the notional income of the vegetable vendor to be as Rs.6,500/- per month. In this case, the accident is of the year 2015. The petitioner's son was aged about 21 years he would have completed his graduation at about the time when he met with an electrocution and died on 26.03.2015.

11. On the aforesaid notional income of Rs.7,500/- per month, there shall be an addition of Rs.3,000/- at 40% towards future prospects in terms of the decision of the Hon'ble Supreme Court in National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680. Thus, the total income of the deceased for computation of the compensation will be Rs.10,500/- [Rs.7,500/- + Rs.3,000/-] per month. As per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12, there is a deduction of 50% from the aforesaid amount, considering the fact that the deceased was a bachelor. Thus, the amount that was available towards computation to the family would be Rs.5,250/- per month. Since the age of the deceased was 21 years, a proper multiplier of 18 will be applied.

earning capacity:-

Income: : Rs.7,500/-

Future Prospects at 40 %
(10,000 x 40/100) : Rs.3,000/-

: Rs.10,500/-

Personal Expenses 1/2nd
(10,500 x 1/2) : Rs.5,250/-

: Rs.5,250/-

Contribution to the family
(x 12) : Rs.63,000/-

Rs.	
Rs.	

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

14. This Writ Petition stands allowed with the above observations and directions. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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Tamil Nadu Generation Electricity
and Distribution Corporation,
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No.144, Anna Salai,
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+1cc to Mr.L.Kannan, Advocate, SR.No.8387.

W.P. No. 12163 of 2016

SKY (CO)
CSR 29.03.2021