

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 711 of 2018
and
W.M.P. No. 878 of 2018

1. Shanthi,
W/o.Late Balraj
2. Shri Harini
D/o.Late Balraj
3. Vasikaran,
S/o.Late Balraj

2 & 3 are minors represented by their
Mother and Natural Guardian Shanthi

.... Petitioners

Vs

1. The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
TANGEDCO,
Olimohammedpettai,
Kancheepuram,
Kancheepuram District.
3. The Divisional Engineer,
TANGEDCO,
Arakkonam Road,
Tiruttani,
Tiruvallur District - 631 209.
4. The Assistant Executive Engineer,
TANGEDCO,
M.P.S. Salai,
Tiruttani, Tiruvallur District - 631 209.
5. The Junior Engineer,
TANGEDCO,
Tiruttani Town-I,
Chennai Bypass Road,
Tiruttani, Tiruvallur District.

6. The Inspector of Police,
D1-Tirutani Police Station,
Tiruttani Taluk,
Tiruvallur District.

7. Saravanan,
S/o.Chinnasamy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 5 to pay compensation of Rs.70,50,000/- together with interest @ 12% per annum from the date of accident till date of payment.

For Petitioners : Mr.S.Udayakumar

For R1 to R5 : Mr.P.Gunaraj
Standing Counsel

For R6 : Mr.N.Inbanathan
Additional Government Pleader

ORDER

The present writ petition has been filed for a writ of mandamus, to direct the respondents to pay compensation of Rs.70,50,000/- as due to the death of the petitioner's husband on 23.05.2017.

2. The case of the petitioner is that the 1st petitioner's husband while standing on the road along with his friend under the respondents/Electricity Board's transformer died due to burn injuries. The transformer exploded, as a result of which, the 1st petitioner's husband sustained burn injuries and later died after they were admitted in the KMC Hospital, Kilpauk, Chennai.

3. The petitioners claim compensation purportedly in terms of the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12 and other decisions of the Hon'ble Supreme Court rendered in the context of Motor Vehicle Accident. The petitioners have stated that the deceased was earning a gross monthly income of Rs.30,204/- and Rs.33,999/- per month and have filed a copy of wages slip for the month of March and April 2017.

4. On the other hand, the respondents submits that the death was due to negligence on the part of the deceased/Balraj, husband of the 1st petitioner inasmuch as he ought not to have been at the place of accident. It is further submitted that the accident took place during the month of May and therefore the deceased ought to have been aware that there was every possibility of the transformer exploding due to fluctuation of the power.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the respondents. Facts are not in dispute. The accident took place at the bus stand near the factory where the transformer of the respondents/Electricity Board is situated.

6. The compensation to be awarded to the petitioners in terms of the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12 and other decisions of the Hon'ble Supreme Court appears to be reasonable. Therefore, the compensation claimed for a sum of Rs.70,50,000/- appears to be highly exaggerated. The age of the deceased was 43 years at the time of death and he was earning a sum of Rs.33,999/- per month, which is rounded off to Rs.34,000/- per month. The correct multiplier to be applied is 14 as per the decision of the Hon'ble Supreme Court in Sarla Verma (referred to supra). The deceased/Balraj has left behind his wife and two minor children. Therefore, there has to be a deduction of 1/3rd towards the personal expenses of the deceased.

7. On the aforesaid income of Rs.34,000/- per month, there shall be an addition of 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.

8. The Hon'ble Supreme Court has also recognized that compensation towards filial and parental consortium is to be granted to the children and parents apart from the consortium to the wife in Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130. Based on the aforesaid decision, Rs.40,000/- each is to be awarded towards parental consortium/loss of love and affection to the 2nd & 3rd petitioners. Apart from the above, a sum of Rs.15,000/- is awarded towards funeral expenses and another sum of Rs.10,000/- is awarded towards transportation.

9. The compensation to be awarded to the petitioners is computed as below:-

Heads and Calculation	Amount
Loss of earning capacity:-	
Monthly Income : Rs.34,000/-	
Add: Future Prospects at 40 % (34,000 x 40/100) : Rs.13,600/-	

: Rs.47,600/-	
Less: Personal Expenses 1/3 rd (47,600 x 1/3) : Rs. 15,866/-	

: Rs. 15,866/-	
Annual Contribution to the family (14866 x 12) : Rs.1,90,392/-	
Multiplier 14 (1,90,392 x 14) : Rs.26,65,488/-	Rs.26,65,488/-
Loss of consortium to the 1 st petitioner	*Rs. 40,000/-
Loss of Parental consortium/love and affection to the 2 nd petitioner & 3 rd petitioner	*Rs. 80,000/- (Rs.40,000 each)
Funeral Expenses	Rs. 15,000/-
Transportation Charges	Rs. 10,000/-
Total	Rs.28,10,488/- Rounded off to Rs.28,10,500/-

*Magma General Insurance Company Ltd., vs Nanuram @ Chuhru Ram and Others,

10. The respondents are therefore directed to pay the aforesaid amount of Rs.28,10,500/- to the petitioners together with interest at 7.5% p.a. from the date of representation dated 06.10.2017 till the date of payment, within a period of three months from the date of receipt of a copy of this order. The amount same shall be directly paid to the credit of the respective bank accounts through NEFT or RTGS.

11. The 2nd & 3rd petitioners are still to be the minors as the 2nd and 3rd petitioners were aged about 12 and 10 years at

the time of death of their father. Therefore, the 2nd & 3rd petitioners shares shall be deposited in an interest bearing account. On attaining the age of majority, the 2nd & 3rd petitioners may also file appropriate application for withdrawing their shares of compensation.

12. Accordingly, this Writ Petition stands partly allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

ARB

To

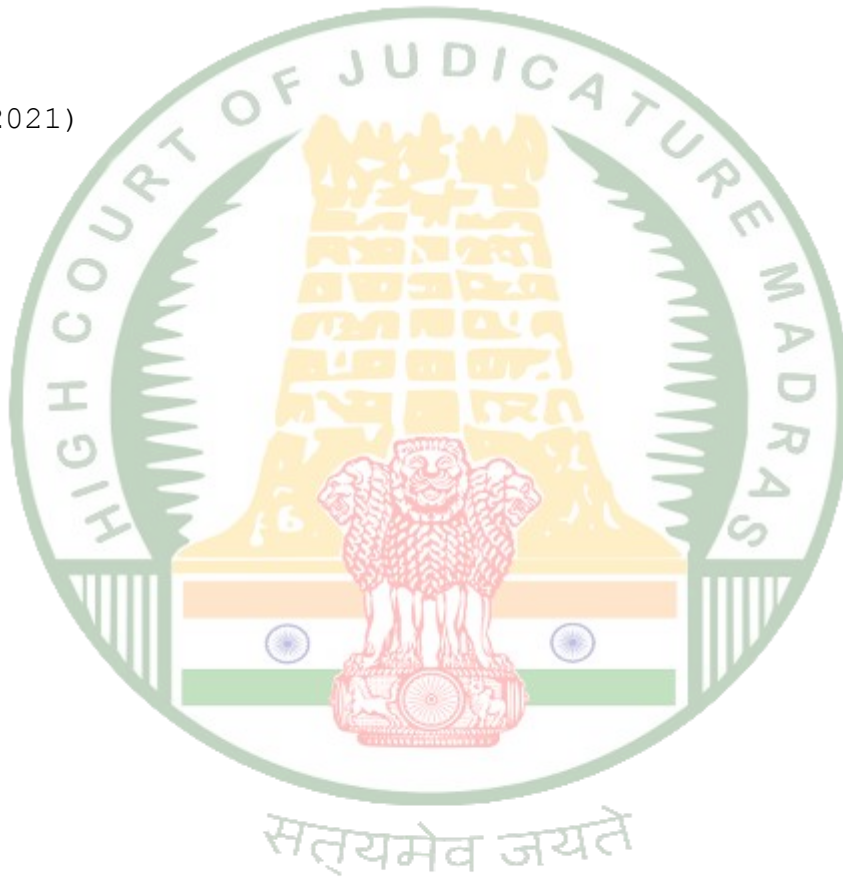
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+1cc to Mr.P.Gunaraj, Advocate, S.R.No.16624
+1cc to Mr.S.Udayakumar, Advocate, S.R.No.16552

W.P. No. 711 of 2018 and
W.M.P. No. 878 of 2018
(2/2)

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TE(27/04/2021)



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