

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 22676 of 2017

1. Saraswathi,  
W/o.Balasubramani  
2. Vinosha,  
D/o.Balasubramani  
3. Gokul,  
S/o.Balasubramani  
4. Bhuvaneshwari  
M/o.Balasubramani  
(R4 impleaded as suo motu as per order  
of this Court dated 12.03.2021  
in W.P.No.22676 of 2017) ... Petitioners

Vs

1. The Chairman,  
TANGEDCO,  
Tamilnadu Electricity Board,  
No.144, Annasalai,  
Chennai - 600 002.  
2. The Superintending Engineer,  
Tamilnadu Electricity Board,  
Erode Region,  
948, EVN Road,  
Erode - 638 009.  
3. The Executive Engineer,  
Tamilnadu Electricity Board,  
Erode Region, 948, EVN Road,  
Erode - 638 009.  
4. The Assistant Engineer,  
Tamilnadu Electricity Board,  
Muthukumarasamy Kovil Theru,  
Avalpunthurai, Erode District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay the compensation of Rs.25 Lakhs for the death of the 1<sup>st</sup>

petitioner's husband namely Balasubramaniam due to the electrocution as a result of improperly maintained snapped electricity livewire in contact with body of deceased in Parakattu Thottam, Kanagapuram Village, Erode District.

For Petitioners : Mr.S.Parthasarathy  
Senior Counsel  
for Mr.K.K.Ramakrishnan  
For Respondents : Mr.N.Damodaran  
Standing Counsel

ORDER

The present writ petition has been filed for a writ of mandamus, to direct the respondents awarding compensation of Rs.25,00,000/- due to the death of the 1<sup>st</sup> petitioner's husband who died due to electrocution as the live electrical wire snapped in the sugarcane field.

2. The petitioner's husband was aged about 43 years at the time of death and was an agriculturalist. The petitioner's husband has left about 5 legal heirs namely the petitioner being the wife of Balasubramani, a minor son, minor daughter and the aged parents.

3. The final report of the police under Section 174 of Cr.P.C, confirms that the death occurred due to electrocution. The Post Mortem Report dated 30.11.2011 also confirms the same. The petitioner therefore sent a representation to the 4<sup>th</sup> respondent dated 05.12.2011 for compensation of Rs.15,00,000/- as her husband passed away due to electrocution on 30.11.2011 at 7.30 a.m., in their agricultural field. Thereafter, the petitioner has sent several representations which however did not evoke any response. The writ petition was thereafter filed in 2017 for compensation.

4. Mr.Parthasarathy, learned Senior Counsel appearing on behalf of the petitioners submits that the petitioners are entitled for compensation as per well settled line of case laws. In this connection reference is drawn to the following cases:-

(i) Arulmeri Vs Superintending Engineer, Tamil Nadu Electricity Board, Ramanathapuram and another, (2013) 2 MLJ 302.

(ii) M.Arulappan Vs Secretary to Government, Chepauk, Chennai and another, (2014) 4 MLJ 517.

(iii) M.P.Electricity Board Vs Shail Kumari and others, (2002) 2 SCC 162.

(iv) H.S.E.B and others Vs Ram Nath and others, (2004) 5 SCC 793.

(v) V.Nagamani Vs The Chairman, Chennai and others, in W.P(MD).No.14886 of 2012.

(vi) G.Karupiah and another Vs Secretary, Chennai and others, (2010) 1 MLJ 885.

(vii) Alamelu Vs The Secretary, State of Tamil Nadu, Chennai and others, 2012 (2) CTC 644.

5. The respondents have filed counter and stated that the writ petition is liable to be dismissed on account of laches and that the petitioner's husband was equally responsible for his death and therefore no compensation was to be paid. It is further submitted that the petitioner's family has received a sum of Rs.2,00,000/- as exgratia from the Chief Minister Relief Fund for natural calamity and therefore no further amount is required to be paid for the death due to electrocution of the petitioner's husband.

6. The learned counsel for the respondents submitted that the deceased Balasubramani planted coconut trees extremely near to the electric line and due to heavy wind, the said coconut tree branches fell on the live wire, as a result of which, the wire snapped on sugarcane field without touching the ground and therefore the accident occurred.

7. It is submitted that that respondents are not responsible for the death of the petitioner's husband and therefore prayed for dismissal of the writ petition.

8. I have considered the arguments advanced by the learned senior counsel for the petitioner's and the respondents. The respondents cannot disown their responsibility. If the electric lines snaps, their system should immediately trip and disconnect the supply.

9. The method of compensation adopted for awarding compensation the provisions of the Motor Vehicles Act, 1988 has been adopted by this Court.

10. The Hon'ble Supreme Court in the case of Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735, has considered a notional income of the vegetable vendor to be as Rs.6,500/- per month. In this case, the accident is of the year 2011. Considering the above, I am of the view, it will be reasonable to consider the notional income of the deceased Balasubramani as Rs.8,500/- per month.

11. On this amount, there can be a further addition of 25% towards future prospects in the light of the above decision of the constitutional bench of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680. The age of the deceased was 43 years at the time of death. Therefore, the correct multiplier to be applied is 14 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. The petitioner has left behind his aged mother, father, wife and two minor children. Therefore, there will be a deduction of 1/3<sup>rd</sup> towards the personal expenses of the deceased.

12. The Hon'ble Supreme Court has also recognized compensation towards filial and parental consortium apart from the consortium to the wife as in the recent decision of the Hon'ble Supreme Court 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 has to be awarded towards parental consortium/loss of love and affection to the 2<sup>nd</sup> & 3<sup>rd</sup> 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.

13. It is further informed that the father of the deceased has died. Though the mother of the deceased is not a party in this writ petition, she is a Class I legal heir. She is therefore entitled for compensation. Thus, the mother of the deceased Bhuvaneshwari is suo moto impleaded as 4<sup>th</sup> Petitioner.

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

| Heads and Calculation                                                                                                                                                                                                                                                                                                                                                                                                              | Amount                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| Loss of earning capacity:-<br><br>Monthly Income<br>: Rs.8,500/-<br><br>Add: Future Prospects at 25 %<br>(8,500 x 25/100)<br>: Rs.2,125/-<br><br>-----<br><br>: Rs.10,625/-<br><br>Less: Personal Expenses 1/3 <sup>rd</sup><br>(10,625 x 1/3)<br>: Rs. 3,542/-<br><br>-----<br><br>: Rs. 7,083/-<br><br>Annual Contribution to the family<br>(7,083 x 12)<br>: Rs.84,996/-<br><br>Multiplier 14 (84,996 x 14) :<br>Rs.11,89,944/- | Rs.11,89,944/-                                     |
| Loss of parental consortium/love and affection to the 2 <sup>nd</sup> and 3 <sup>rd</sup> petitioners (Rs.40,000 x 2)                                                                                                                                                                                                                                                                                                              | *Rs. 80,000/-                                      |
| Funeral Expenses                                                                                                                                                                                                                                                                                                                                                                                                                   | Rs. 15,000/-                                       |
| Transportation Charges                                                                                                                                                                                                                                                                                                                                                                                                             | Rs. 10,000/-                                       |
| Loss of consortium to 1 <sup>st</sup> Petitioner                                                                                                                                                                                                                                                                                                                                                                                   | *Rs. 40,000/-                                      |
| Loss of filial consortium to the 4 <sup>th</sup> respondent mother of the deceased                                                                                                                                                                                                                                                                                                                                                 | *Rs. 40,000/-                                      |
| Total                                                                                                                                                                                                                                                                                                                                                                                                                              | Rs.13,74,944/-<br>Rounded off to<br>Rs.13,75,000/- |

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

15. The aforesaid compensation amount shall be apportioned

to the petitioners as follows:-

|                               |                                    |
|-------------------------------|------------------------------------|
| Wife of the deceased (P1)     | - Rs.6,25,000/- + interest at 7.5% |
| Daughter of the deceased (P2) | - Rs.2,50,000/- + interest at 7.5% |
| Son of the deceased (P3)      | - Rs.2,50,000/- + interest at 7.5% |
| Mother of the deceased (P4)   | - Rs.2,50,000/- + interest at 7.5% |

16. The respondents are directed to pay the said amount to the petitioners together with interest at 7.5% p.a. from the date of representation dated 05.12.2011 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 the respective petitioners through NEFT or RTGS.

17. The petitioners are therefore directed to furnish their bank account details together with necessary information to the third or fourth respondent, within a period of one month from the date of receipt of a copy of this order.

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

Sd/-  
Assistant Registrar (CS VII)

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Sub-Assistant Registrar

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To

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PL(CO)  
KKN 26.04.2021



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