

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 18628 of 2017
and
W.M.P. No. 20169 of 2017

B.Saraladevi,
W/o.R.Boopalan

... Petitioner

Vs

1. The Government of Tamil Nadu,
represented by its Chief Secretary,
Fort St.George, Chennai.
 2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai – 600 002.
 3. The Superintending Engineer,
Kanchipuram Electricity Distribution Circle,
Anna Malligai, Olimohamedpet,
Kanchipuram.
 4. The Assistant Engineer,
TANGEDCO,
Tiruthani.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to pay a sum of Rs.28,40,000/- by way of compensation to the petitioner for the death of the petitioner's husband R.Boopalan, on account of explosion of EB transformer.

For Petitioner : Mr.R.S.Anandan
For R1 : Mr.N.Inbanathan
Additional Government Pleader
For R2 to R4 : Mr.P.Gunaraj
Standing Counsel

ORDER

The petitioner has filed this writ petition for a writ of mandamus to direct the respondents to pay compensation of Rs.28,40,000/- as due to the death of the petitioner's husband on 17.05.2017.

2. The case of the petitioner is that the 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 petitioner's husband and his friend sustained burn injuries and later died after they were admitted in the KMC Hospital, Kilpauk, Chennai. eventually admitted to hospital on 17.05.2017.

3. The petitioner claimed 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 petitioner has stated that the deceased was earning a gross monthly income of Rs.9,500/- per month and have filed a copy of wage 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/R.Boopalan, 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 petitioner 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.28,40,000/- appears to be highly exaggerated.

7. The age of the deceased was 29 years at the time of death and he was earning a sum of Rs.9,500/- per month. The correct multiplier to be applied is 17 as per the decision of the Hon'ble Supreme Court in **Sarla Verma** (referred to supra). The deceased/Boopalan has left behind his aged mother, wife and two minor son. Therefore, there will be a deduction of $\frac{1}{3}^{\text{rd}}$ towards the personal expenses of the deceased.

8. On the aforesaid income of Rs.9,500/- per month, there shall be an addition of 50% 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.

9. The Hon'ble Supreme Court has also recognized that compensation towards filial and parental consortium is to be granted to the children and the parents apart from the consortium to the wife in **Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130.

10. The compensation towards loss of consortium i.e., filial consortium/parental consortium and consortium of Rs.3,00,000/- appears to be exorbitant and contrary to the decision of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130. Accordingly, the amount shall be Rs.1,20,000/- at Rs.40,000/- each per person restoring the amount can be claimed by the petitioner, appears to be reasonable in terms of the decision of the Hon'ble Supreme Court cited above as has been followed in the compensation. Similarly, a sum of Rs.15,000/- and Rs.10,000/- has to be awarded under the conventional heads of funeral expenses and transportation charges.

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

Heads and Calculation	Amount
<u>Loss of earning capacity:-</u>	
Monthly Income : Rs.9,500/-	
Add: Future Prospects at 50 % (9,500 x 50/100) : Rs.4,750/-	
----- : Rs.14,250/-	
Less: Personal Expenses 1/3 rd (14,250 x 1/3) : Rs. 4,750/-	
----- : Rs. 4,750/-	
Annual Contribution to the family (4750 x 12) : Rs.57,000/-	
Multiplier 17 (57,000 x 17) : Rs.9,69,000/-	Rs.9,69,000/-
Loss of consortium to the 1 st petitioner	*Rs. 40,000/-
Loss of Parental consortium/love and affection to the 2 nd petitioner	*Rs. 40,000/-
Loss of Filial consortium to the 3 rd petitioner/mother of the deceased	* Rs. 40,000/-
Funeral Expenses	Rs. 15,000/-
Transportation Charges	Rs. 10,000/-
Total	Rs.11,14,000/-

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

12. The respondents are therefore directed to pay the aforesaid amount of Rs.11,14,000/- to the petitioners together with interest at 7.5% p.a. from the date of representation dated 29.05.2017 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 the respective petitioners through NEFT or RTGS.

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

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15.03.2021

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Index: Yes/ No

Internet : Yes/No

C.SARAVANAN,J.

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To

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St.George, Chennai.
2. The Chairman,
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At the instance of the learned counsel for the petitioner, this case is listed today under the caption 'for being mentioned' as there are certain calculation errors in the above writ petition.

2. While calculating the compensation, there was inadvertent

mistake in the Judgment dated 15.03.2017. Hence, the calculation in para No.11 and para No.12 of the Judgment dated 15.03.2021 shall stand deleted and the substituted as follows.

Heads and Calculation	Amount
<u>Loss of earning capacity:-</u>	
Monthly Income : Rs. 9,500/-	
Add: Future Prospects at 50 % (9,500 x 50/100) : Rs. 4,750/-	
----- : Rs.14,250/-	
----- : Rs.14,250/-	
Less: Personal Expenses 1/3 rd (14,250 x 1/3) : Rs. 4,750/-	
----- : Rs. 9,500/-	
Annual Contribution to the family (9500 x 12) : Rs.1,14,000/-	Rs. 1,14,000/-
Multiplier 17 (1,14,000 x 17) : Rs.19,38,000/-	Rs. 19,38,000/-
Loss of consortium to the 1 st petitioner	*Rs. 40,000/-
Loss of Parental consortium/love and affection to the 2 nd petitioner	*Rs. 40,000/-
Loss of Filial consortium to the 3 rd petitioner/mother of the deceased	Rs. 40,000/-
Funeral Expenses	Rs. 15,000/-
Transportation Charges	Rs. 10,000/-
Total	Rs. 20,83,000/-

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

12. The respondents are therefore directed to pay the aforesaid amount of Rs.20,83,000/- to the petitioners together with interest at 7.5% p.a. from the date of representation dated 29.05.2017 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 the respective petitioners through NEFT or RTGS.

3. Registry is directed to furnish a fresh copy of the order to the parties.

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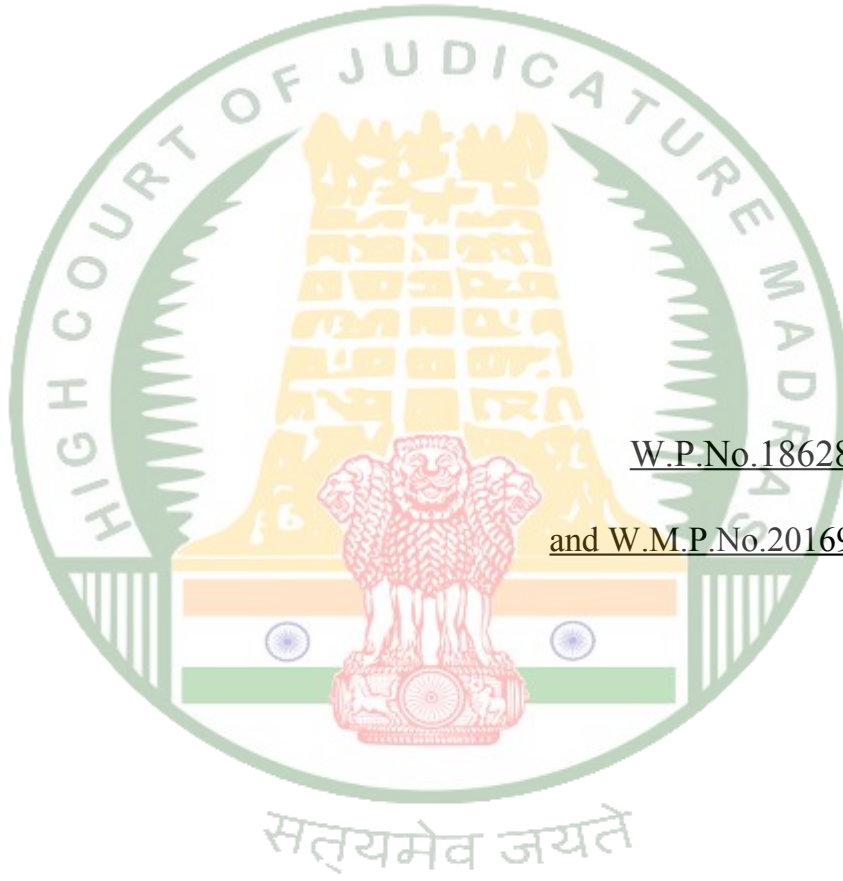
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