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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.29651 of 2017
and W.M.P.No.31950 of 2017

Nagamani

... Petitioner

Vs.

1.The Superintending Engineer
TANGEDCO
Olimohamedpet,
Kanchipuram,
Kanchipuram District.

2.The Divisional Engineer,
TANGEDCO,
Arakonam Road,
Tiruttani - 631 209.

3.The Assistant Executive Engineer,
TANGEDCO,
MA.PO.C.Salai,
Tiruttani - 631 209.

4.The Junior Engineer (O & M),
TANGEDCO,
Athimancheri Pettai,
Pallipet Taluk,
Tiruvallur District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents jointly and severally to pay compensation of Rs.25,00,000/- or such other amount as this Court may deem fit.

For Petitioner : Mr.S.Udayakumar

For Respondents: Mr.L.Jaivenkatesh
Standing Counsel





5. From the above facts and circumstances of the case, it has become clear that the over head electric line got snapped and fallen on the land owned by the first petitioner. No sensible person knowingly will touch a snapped wire and invite a tragic consequences. As rightly contended by the learned counsel for the petitioner, the petitioner's son unknowingly had come into contact with the live wire and this Court can safely infer that this was due to improper maintenance, the electric wire had snapped and fell on the land. The respondents cannot be allowed to take refuge under the plea of 'Act of God' and denying the petitioners' due compensation. In fact, the respondents themselves had recognized such accidents and offered Rs.2,00,000/- as compensation for any fatal accidents, regardless of the fact whether the victim was at fault or not. Such being the case, the payment of compensation cannot be resisted or contested by the respondents.

6. However, while computing the compensation, this Court has to see what is fair and reasonable under the circumstances of the case. As regards the issue of payment of compensation to such victims, this Court time and again has entertained several writ petitions and ordered payment of compensation ranging from Rs.5,00,000/- to Rs.30,00,000/-, depending upon the facts and circumstances of each case.

7. At the out set, in the present case, offering exgratia of Rs.2,00,000/- by the respondents, in the opinion of this Court, is not just and fair. The petitioner's son was aged about 20 at the time of incident and was working and earning Rs.15,000/- as salary. Therefore, in the matter of awarding just compensation, it would be appropriate to apply the method as laid down by the Hon'ble Supreme Court of India in the case of "National Insurance Company Limited vs. Pranay Sethi and others reported in (2017) 16 SCC 680 and Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

8. This Court, even recently on 06.12.2017, has passed orders under similar circumstances, granting little over Rs.6,00,000/- with 9% interest from the date of writ petition till the date of payment. The following cases which are referred to in the order passed by this Court in W.P.No.24079 of 2008 dated 06.12.2017, would be of great significance for providing just and reasonable compensation.

9. In the case of "Sarala Verma (Smt) and others Vs. Delhi Transport Corporation and another", reported in (2009) 6 Supreme Court Cases 121. The relevant portion of the judgment at



Paragraph Nos.16, 17 and 18, are extracted below:-

"16. Compensation awarded does not become "just compensation" merely because the Tribunal considers it to be just. For example, if on the same or similar facts(say the deceased aged 40 years having annual income of Rs.45,000/- leaving his surviving wife and child), one Tribunal awards Rs.10,00,000/- another awards Rs.5,00,000/- and yet another awards Rs.1,00,000/- all believing that the amount is just, it cannot be said that what is awarded in the first case and the last case is just compensation. "just compensation" is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.

17. Assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication and fairness and uniformity in the decision-making process and the decisions while it may not be possible to have mathematical precision or identical awards in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same, and the formula/legal principles are the same, consistency and uniformity and not divergence and freakiness, should be the result of adjudication to arrive at just compensation, In *susamma Thomas*, this Court stated : (SCC p.185, para 16)

"16....The proper method of computation is the multiplier method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability, for the assessment of compensation."

18. Basically only three facts need to be established by the claimants for assessing compensation in the case of death:

- (a) age of the deceased;
- (b) income of the deceased; and
- (c) the number of dependants.



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The issues to be determined by the Tribunal to arrive at the loss of dependency are:

- (i) additions/deductions to be made for arriving at the income;
- (ii) the deduction to be made towards the personal living expenses of the deceased; and
- (iii) the multiplier to be applied with reference to the age of the deceased."

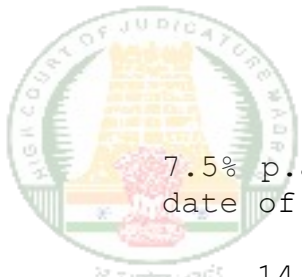
10. If these determinants are standardised, there will be uniformity and consistency in the decisions. There will be lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay."

11. The judgment also referred to for applying multiplier in regard to different age groups as found in paragraph 42, which is extracted below:-

"42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

12. The Accident was occurred in the year 2016. The deceased was a graduate. Therefore, even if the income is not proved and for a 21 year old person it would be appropriate to fix the notional income of the deceased at Rs.15,000/- p.m. Applying the ratio laid down by the Apex Court in the case of Sarla Varma (supra), as the age of the deceased was 21 years on the date of the incident, multiplier of 18 would be applicable and after deducting 50% towards personal expenses and adding 40% towards future prospects, the total loss of dependency would come to Rs.22,68,000/- ($15,000 \times 12 \times 18 \times 1/2 \times 50\% = 22,68,000/-$). Apart from this, the plaintiff is also entitled to a sum of Rs.40,000/- towards parental consortium and transport charges at Rs.10,000/-

13. In the light of above, this Court determined the compensation at Rs.23,18,000/- and the respondent is liable to pay the said amount to the petitioner along with interest at



7.5% p.a. from the date of filing of the Writ Petition till the date of payment.

14. Accordingly, this Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

Pns
To

1. The Superintending Engineer,
TANGEDCO,
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Kanchipuram District.
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Athimancheri Pettai,
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Tiruvallur District.

+lcc to M/s.S.Udayakumar, Advocate Sr.68444
+lcc to M/s.L.Jai Venkatesh, Advocate Sr.68255

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