



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.450 of 2012

and

M.P(MD)No.1 of 2012

WEB COPY

1.The Chairman,
Tamil Nadu Electricity Board,
Chennai.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Rajarajan Garden,
Kumbakonam, Thanjavur.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Thanjavur.

4.The Junior Engineer,
Tamil Nadu Electricity Board,
Valangaiman.

... Appellants / Respondents

Vs.

T.Mallika

... Respondent / Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 29.03.2012 passed in W.P(MD)No.8720 of 2011.

Prayer in WP(MD). 8720/ 2011 :

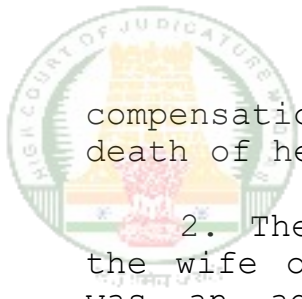
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.10,00,000/- as compensation to the Petitioner, who lost her husband on 24.12.2009 due to electrocution owing to the negligence of the Respondent officials in maintaining the overhead wires as against the provisions of Tamil Nadu Electricity Rules, 1956.

For Appellants : Mrs.S.Srimathy,
For Respondent : No Appearance

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA,J.)**

Challenge in this writ appeal is to the order of the writ Court dated 29.3.2012 made in W.P.(MD)No.8720 of 2011, by which, the writ Court directed the appellants herein/Electricity Board, to pay a



compensation Rs.2,95,000/- along with cost to the respondent for the death of her husband.

2. The case of the respondent/writ petitioner is that she is the wife of one Thangadurai. On 24.12.2009, when her husband, who was an agriculturist and milk vendor, was returning from the agricultural land in Tholuvur through the varapu, the electric line passing through the property of one Chinnaiaya Udayar got snapped and fell down and he came in contact with the live wire and was got electrocuted and sustained injuries. Immediately, he was taken to Government Hospital, Mannargudi and ultimately, he died due to electrocution.

3. According to the respondent/writ petitioner, the incident was solely happened due to the negligence on the part of the officials of the Tamil Nadu Electricity Board and the officials failed to maintain the supply line in good condition and hence, the respondent/writ petitioner wanted the Tamil Nadu Electricity Board, to pay compensation for the death of her husband. Therefore, she has filed W.P.(MD)No.8720 of 2011, for a direction to the appellants herein to pay a sum of Rs.10,00,000/- as compensation towards the death of her husband.

4. The claim was contested by the appellants herein/respondents by filing a counter stating that due to sudden heavy rain, thunder and lightening, the electric line snapped and fell down, which resulted in electrocution and there was no negligence on the part of the Electricity Board or its Officials and therefore, the Board is not liable to pay compensation.

5. Upon hearing the parties and after perusing the records available before it, the writ Court, considering the provisions of the Electricity Act, 2003 and the decision of the Hon'ble Supreme Court, at Paragraph Nos.8 & 9 and 16 & 17, has held as follows:

"8. The Board being the licensee was expected to conduct pre-monsoon inspection for the purpose of taking preventive measures within the meaning of Regulation 20 of Supply Code. There is nothing on record to show that the Board officials have conducted pre-monsoon inspection at any time before the incident.

9. The concept of strict liability in the context of snap electrocution came up for consideration before the Supreme Court in *M.P. Electricity Board v. Shail Kumari* [2002(2) SCC 162]. The Supreme Court interpreted the rule of strict liability and directed the Electricity Board to pay compensation to the dependents of the deceased, after arriving at a finding that the live wire got snapped and fell on the public road which was partially inundated and the deceased rod over the



wire, which twitched and snatched him resulting in his instantaneous electrocution. The Supreme Court indicated the theory of foreseeable risk in the following words:

"7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.

8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability case on such person is known, in law, as "strict liability". It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the



9. It is not in dispute that the deceased was 57 years old on the date of accident, was working as an agriculturist and also doing milk vending business and earning a sum of Rs.15,000/- per month.

10. The writ Court, by following the decision in **Sri Ramachandrappa vs. Manager, Royal Sundaram Alliance Insurance Company** reported in **AIR 2011 SC 2951**, has fixed notional income of the deceased at Rs.4,500/- per month, applied multiplier '8' and determined the compensation at Rs.2,88,000/-, awarded a sum of Rs.2,000/- towards funeral expenses and awarded a sum of Rs.5,000/- towards loss of consortium and directed the Electricity Board to pay a sum of Rs.2,95,000/- as compensation to the respondent/writ petitioner, towards the death of her husband along with interest and cost.

11. The learned single Judge, after elaborately considering the relevant provisions of the Electricity Act, 2003 and the decision of the Hon'ble Supreme Court, has awarded the compensation. Hence, we do not find any error or illegality in the order of the writ court, warranting interference by this court.

12. In the result, the writ appeal is dismissed confirming the order of the writ Court dated 29.03.2012 made in W.P.(MD)No.8720 of 2011. The appellants herein/Electricity Board is directed to disburse the amount, if not already disbursed, within a period of six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Pm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chairman,Tamil Nadu Electricity Board,Chennai.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Rajarajan Garden, Kumbakonam, Thanjavur.

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



3.The Superintending Engineer,
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Thanjavur.

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Tamil Nadu Electricity Board, Valangaiman.

**Judgment made in
W.A(MD) No.450 of 2012
22.01.2021**

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AP(22/02/2021) 6P 5C**