



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.16913 of 2013

1. P.Latha
2. Minor P.Muthukumar
3. Minor P.Kesavan
4. Minor P.Thirumurthy
5. Guruvammal

... Petitioners

Vs.

1. The Chairman,
TANGEDCO,
Formerly Tamil Nadu Electricity Board,
Anna Salai, Chennai.
2. The Superintending Engineer,
TANGEDCO,
Formerly Tamil Nadu Electricity Board,
Sivagangai District.
3. The Executive Engineer,
TANGEDCO,
Formerly Tamil Nadu Electricity Board,
Manamadurai,
Sivagangai District.
4. The Assistant Executive Engineer,
TANGEDCO,
Formerly Tamil Nadu Electricity Board,
Manamadurai,
Sivagangai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to pay Rs.15,00,000/- jointly and severally to the petitioners herein for the electrocution of the 1st petitioner's husband late A.Palanichamy due to the negligence of the respondents and their subordinates in maintaining the live electric wires.

For Petitioners
For Respondents

: Mr.S.Srinivasa Raghavan
: Ms.M.Parameswari,
for Mr.S.M.S.Johny Basha,
Standing Counsel.



ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Standing counsel appearing for the respondents/TANGEDCO.

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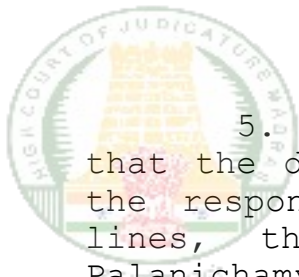
2. A.Palanichamy is the husband of the first petitioner and father of petitioners 2 to 4 and son of the fifth petitioner. He was eking out his livelihood as an agricultural coolie. On 08.01.2013 at about 12.40 a.m., when he was grazing the cattle in open ground in V.Pudukulam, Sivagangai Taluk, Sivagangai District, he had accidentally come in contact with a low hanging electricity wire. It was a live wire and the petitioner died on the spot. In this regard, Crime No.10 of 2013 was registered on the file of SIPCOT police station under Section 174 of Cr.P.C. Alleging that the accident had occurred solely on the ground of negligence on the part of the respondents, the petitioners demanded payment of compensation. Since the said request was not acted upon, this writ petition came to be filed.

3. The prayer in this writ petition is opposed and the respondents have filed counter affidavit. Nature of death due to electrocution is not in dispute. In fact it cannot be disputed. This is because, postmortem report enclosed in the typed set of papers though not containing final opinion clearly indicates the nature of injuries suffered by the deceased Palanichamy. The external injuries found on the Hyoid bone of the deceased are as follows:-

" ... External Injuries 1. Linear irregular abrasive burn mark extending from 2 cm below L angle of mandible to hyoid bone of size 8 x 1 cm. 2. Linear midline abrasive burn mark over the region of thyroid arthlage between 2 heads of stem mastoid of size 5 x 1 cm. 3. Deep lacerated burn mark of size 3 x 2 x 1 cm over suprastemal notch. 4. Contention of size 5 x 4 cm R thigh Internal examination. ..."

Therefore, this Court comes to the conclusion that the deceased died only due to electrocution.

4. As rightly pointed out by the learned counsel appearing for the petitioners, the electricity board authorities are bound to maintain the vertical as well as the horizontal clearance of the electric lines in this regard. The fact that the neck of the deceased came in contact with the electric wire would by itself indicate that it was low hanging. That means the respondents did not maintain the requisite vertical clearance. It is stated that the electric lines will have to run at a height of not less than 18 meters.



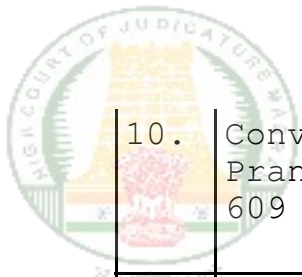
5. Therefore, I have no difficulty to come to the conclusion that the death occurred only due to the negligence on the part of the respondents. If the respondents had maintained the electric lines, the incident would have been averted. The deceased Palanichamy did not contribute in any way for his death. He is an innocent victim and therefore, the liability will have to be squarely fastened on the respondents.

6. Now comes the question of working out the quantum of compensation, the deceased was aged about 38 years when the death occurred. It has been held in more than one decision of the Madras High Court that the formula that is applied for calculating the compensation in the case of motor vehicle accident can be applied for electrocution deaths also.

7. The petitioners' counsel placed reliance on the order passed by this Court made in W.P.(MD)No.14838 of 2011 dated 30.09.2015. Applying the said formula, the compensation payable by the respondents is worked out as follows:-

MEMO OF CALCULATION
FILED BY THE PETITIONERS

1.	Age of the deceased	38 years
2.	Date of occurrence	08.01.2013
3.	Monthly income arrived at notionally as per verdict in (2019) (1) TNMAC 54(DB) (Andal and Others V. Abhinav Kannan and Others)	Rounded off =Rs.10,000/-
4.	Loss on account of future prospects as per the Constitution Bench verdict in Pranay Sethi case	40% on notional income
5.	Total income	Rs.14,000/-
6.	Multiplier for the age of 38 as per Sarla Verma case(2009 (2) TNMAC 1 (SC)) and Pranay Sethi case (2017 (2) TNMAC 609 (SC)	15
7.	Future loss of income	14,000 x 12months x 15 multiplier
8.	Deduction towards personal expenses(5 claimants)	1 / 4
9.	Loss of income less personal expenses	14000x12x15x3/4 (Contribution)= 18,90,000



10.	Conventional damages as per Pranay Sethi case(2017 (2) TNMAC 609 (SC)	Rs.70,000/-
11.	Total Compensation	Rs.19,60,000/-
12.	Amount claimed in W.P.	Rs.15,00,000/-
13.	Rate of interest	6% p.a.

8. The petitioner has asked only for payment of a sum of Rs.15,00,000/-. I therefore have no hesitation to direct the respondents to do so.

9. This writ petition stands allowed. The respondents are directed to pay compensation to the petitioners a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) along with interest at the rate of 6% p.a from the date of filing of W.P. The compensation amount is apportioned among the claimants as follows:-

Latha/wife/first petitioner	Rs.7,00,000/-
Guruvammal/mother/fifth petitioner	Rs.2,00,000/-
Muthukumar/son/second petitioner	Rs.2,00,000/-
Kesavan/son/third petitioner/	Rs.2,00,000/-
Thirumurthy/son/fourth petitioner	Rs.2,00,000/-

No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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:

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+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate (SR-179[F] dated
06/01/2021)

W.P. (MD) No.16913 of 2013
05.01.2021

VB (20.01.2021) 5P 6C