

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13384 OF 2017

**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD
MUMBAI AND OTHERS
VERSUS
NANDA RAJU BORDE AND OTHERS**

...

Advocate for Petitioners : Mr. Sanjay V. Mundhe
Advocate for Respondent Nos.1 to 4: Mr. Sachin Joshi h/f Mr.
Sushant C. Yeramwar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 08th JUNE, 2022

PER COURT :

1. This petition filed under Article 227 of the Constitution of India is directed against the award passed by the Permanent Lokadalat, Aurangabad in Pre-litigation Application No.46/2015.

2. Raju Borde, husband of respondent No.1, expired due to electrocution, hence, the pre-litigation application was filed by respondent No.1 under Section 22-C(1) of the Legal Services Authorities Act, 1987 claiming compensation of Rs.20 Lakhs. In the application, it is claimed that on 05/04/2015 when Raju was unloading tempo, he was electrocuted and succumbed to death. It is also claimed that at the time of death Raju was serving with M/s. A. B. Services and was earning Rs.30,000/- per month. At that time he was 30 years old. Though the petitioners were liable to pay

immediate compensation of Rs.2 Lakhs, the same was not paid.

3. The petitioners resisted the application by filing say and denied the contentions in the application. The petitioners contended that there was no negligence on their part and when the deceased was knowing that live electric wire is hanging in such a position that it may contact with the body of the Tempo, still the deceased continued his work without taking due care and caution. They, therefore, denied their liability to pay the compensation. The petitioners also relied on the preliminary report of the Assistant Engineer, M.S.E.D.C.L., wherein he has stated that metal rod of the body of the Tempo was quite high and therefore, it might have come in contact with the L.T. line.

4. The permanent Lokadalat, after hearing the parties partly allowed the application and directed the parties to pay the compensation of Rs.9,15,000/- along with the interest at the rate of 9% per annum from the date of application, till realisation of the amount. The petitioners are aggrieved by this award.

5. Heard Mr. Sanjay V. Mundhe, learned advocate for petitioners and Mr. Sachin Joshi h/f Mr. Sushant C. Yeramwar, learned advocate for respondents.

6. The learned advocate for petitioners vehemently urged

that there is no negligence on the part of the petitioners. On the contrary the record indicates that there was contributory negligence on the part of the deceased. By relying on the report of the Assistant Engineer, he submits that the body of the Tempo was at quite high level and the same has come into contact with the L.T. line. It was the duty of driver of the said Tempo to take care, however, he has failed to do so and therefore, M.S.E.D.C.L. cannot be said to be solely liable to pay the compensation. Further submission is that no report of the inspector is called and proved on record and therefore, the Permanent Lokadalat was not justified in awarding the compensation to the respondents.

In the alternate he submits that the age and income of the deceased is not proved on record. Therefore, the compensation granted is on higher side. He further submits that an amount of Rs.1,50,000/- is awarded towards love and affection loss of consortium, which is also on much higher side. By relying on the decision reported in *National Insurance Company Limited Vs. Pranay Sethi and Others, 2017 AIR (SC) 5157*, he submits that the Hon'ble Apex Court has held that, total amount of Rs.70,000/- should be awarded towards the loss of consortium and funeral expenses etc. In the present case, since the amount of Rs.1,50,000/- is awarded the same is double the amount directed by the Hon'ble Apex Court and therefore, the same needs to be

reduced.

7. On the other hand, the learned advocate for respondents supported the impugned judgment and award. He submits that as per the Assistant Engineer's report and the sketch made by him, it is clear that the L.T. line was at a lower position which has come into contact with the Tempo and the deceased was electrocuted. He submits that it was brought on record that the deceased was earning Rs.30,000/- per month and he was of 30 years age at the time of death. He, therefore, submits that the Lokadalat was justified in awarding the amount of compensation to the respondents.

8. Heard Mr. Sanjay V. Mundhe, learned advocate for petitioners and Mr. Sachin Joshi h/f Mr. Sushant C. Yeramwar, learned advocate for respondents, at length. Perused the documents placed on record.

9. Admittedly, Raju Borde expired due to electrocution on 05/04/2015. From the sketch drawn by the Assistant Engineer, it appears that live L.T. line was hanging at a lower position, which came in contact with the body of tempo, due to which Raju was electrocuted and succumbed to death.

10. The material placed on record does not indicate that there was contributory negligence on the part of the deceased Raju and driver of the tempo.

11. Preliminary report of the Assistant Engineer is as vague as it could be. It vaguely mentions that rear portion of the tempo was prepared of iron angles and there is every possibility that the iron structure of the tempo must have brushed with the live L.T. line or due to wind the L.T. line must have come in contact with the rear body of the tempo. Even if this report is taken into consideration, it does not in any manner indicate that there was contributory negligence on the part of the deceased Raju or driver of the tempo. In this view of the mater, the finding of Lokadalat that there was negligence on the part of the petitioners, cannot be faulted with.

12. So far as the age and income of the deceased is concerned, the Lokadalat has not accepted the contention of the respondents that deceased Raju was earning Rs.30,000/- per month while working with A. B. Services. The Lokadalat, by considering the minimum wages paid to the labours at that point of time, has recorded a finding that deceased Raju must be earning more than Rs.5,000/- per month, including agricultural income. In fact, the Lokadalat is justified to the extent of taking into consideration the Minimum Wages Act, however, the Lokadalat has

failed to take into consideration the agricultural income, which it has included in the amount of Rs.5,000/-. In view of this finding, it is not possible to accept the argument of the petitioners that the income of the deceased was not proved. Admittedly, all the four respondents were the dependent on the deceased. In that view of the matter, the Lokadalat was justified in awarding the compensation of Rs.9,15,000/- to the respondents.

13. As far as the arguments pertaining to the age of the deceased having not been proved, the same is also liable to be rejected, as in the preliminary report of the Assistant Engineer, the age of deceased Raju is shown as 30 years.

14. In ***Pranay Sethi*** (supra) the Hon'ble Apex Court has held:

"(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every years."

The said judgment is of the year 2017. Even if we take 10% increase in every three years, amount of Rs.1,50,000/- awarded by the Permanent Lokadalat towards loss of love and affection, loss of consortium cannot be said to be on higher side. In the facts of the present case, this Court is of the view that Lokadalat was justified in awarding Rs.1,50,000/- towards loss of

love and affection and loss of consortium.

15. For the aforestated reasons, no merit is found in the challenge raised by the petitioners in the present case. The writ petition is, therefore, dismissed. No costs.

16. The amount of compensation deposited by the petitioners, be paid to the respondents/claimants.

(NITIN B. SURYAWANSHI, J.)

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