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A.S.No.457 of 2012
and M.P.No.1 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

A.S.No.457 of 2012

and

M.P.No.1 of 2012

- 1.Tamil Nadu Electricity Board rep. by
its Chairman, Anna Salai, Chennai - 2.
 - 2.Tamil Nadu Electricity Board rep.by
its Executive Engineer (Construction),
Keeleripatty Power House, Thiruchengode Taluk,
Namakkal District.
 - 3.Tamil Nadu Electricity Board rep. by
its Assistant Executive Engineer (Construction),
Keeleripatty Power House, Thiruchengode Taluk,
Namakkal District.
- ... Appellants
- ..Vs..

- 1.Baby
 - 2.Kamalam
 - 3.Annadurai
- ... Respondents

PRAYER : First Appeal filed under Order XXXIV Rule 1 of CPC r/w.
Section 96 of C.P.C., against the decree and judgment dated 27.10.2009
made in O.S.No.9 of 2006 on the file of the Additional District Court
(Fast Track Court), Namakkal.



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For Appellants : Ms.Hemalatha Gajapathi

For respondents : No appearance

JUDGMENT

The appellants are the defendants in O.S.No.9 of 2006 on the file of the Additional District Court (Fast Track Court), Namakkal.

2.The appellants/defendants filed the present appeal challenging the decree and judgment dated 27.10.2009 passed by the learned Additional District Judge (Fast Track Court), Namakkal.

3.For the sake of convenience, the parties are referred to as per their ranking in the trial Court and in appropriate places, their rank in the present appeal would also be indicated.

4.The brief facts of the case of the plaintiffs :

The plaintiffs are the legal heirs of one Late. Ravi. Late. Ravi was a casual labour in Tamil Nadu Electricity Board (Defendants) for the past seven years earning a sum of Rs.60/- per day. On 30.10.2004, Ravi was directed to change the HT lines in the transformer in the village of



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Keeleripatty, Thiruchengode Taluk. Thiru. Sengodan (PW2) was the supervisor and Ravi climbed on the transformer to remove the old HT lines in the transformer. At that point of time, there was a flow of electricity in the transformer, as a result of which, Ravi was electrocuted and died on the spot. Thereafter, an FIR in Crime No.777 of 2004 of Thiruchengode Police station was registered by the Tamil Nadu Electricity Board on 30.10.2004. According to the plaintiffs, the accident took place only due to the negligence on the part of the Tamil Nadu Electricity Board and therefore, they are liable to pay compensation of Rs.7,00,000/- to them.

5.The suit was resisted by the defendants on the following grounds:

- 1) When Ravi along with his colleague was engaged in dismantling HT lines at Keeleripatty Village, Thiruchengode Taluk, there was a return of supply of electricity in the transformer, as a result of which, he died. This is mainly due to the fact that a generator in a nearby Power loom was operated without earth leakage circuit breaker.



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2) Therefore, the death of Ravi was not due to the negligence on the part of the Tamil Nadu Electricity Board.

3) The suit is also not maintainable for non-joinder of the owner of Power loom.

4) The plaintiffs at the most can seek compensation only from the owner of Power loom and not from the defendants.

Therefore, the defendants prayed for dismissal of the suit.

6. Based on the above pleadings, the trial Court framed the following issues :

- 1) Whether the plaintiffs are entitled to get compensation from the defendants?
- 2) Whether the suit is barred for non-joinder of necessary parties?
- 3) To what relief the plaintiffs are entitled?

7. In the trial Court, the first plaintiff examined herself and one another witness and marked Ex.A1 to Ex.A10. No oral / documentary evidence was adduced on the side of the defendants.



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8. After full contest, the learned Additional District Judge, (Fast Track Court), Namakkal, held that the defendants are negligent and that the owner of the Power loom is not a proper and necessary party to the suit. It was further held that the plaintiffs are entitled to Rs.6,48,000/- towards compensation from the defendants together with interest at the rate of 6% per annum from the date of plaint till the date of realisation. The plaintiffs were further awarded a sum of Rs.52,000/- towards Court fees. Aggrieved over the same, the present appeal is filed.

9. Heard Ms.Hemalatha Gajapathi, learned counsel appearing for the appellants. No representation for the respondents.

10. The points for consideration in the instant appeal are

- 1) Whether the suit filed by the respondents is bad for non-joinder of necessary party namely the owner of the Power loom ?
- 2) Whether the amount of compensation awarded to the respondents is exorbitant?
- 3) Whether the appeal is liable to be allowed ?



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11.It is an admitted fact that Late Ravi was working under the defendants and he was asked to remove the HT lines in the transformer on 30.10.2004 around 11.00 a.m. at Keeleripatty Village, Thiruchengode Taluk. Accordingly, Ravi got on the transformer under the supervision of Thiru. Sengodan (PW2), who was working for Tamil Nadu Electricity Board as a supervisor. When he started removing HT lines, there was flow of electricity in the transformer due to which he was electrocuted. The specific contention of the defendants in the suit is that the accident took place due to the negligence on the part of the owner of a Power loom, which is situated adjacent to the transformer. According to them a generator in the Power loom was operated without earth leakage circuit breaker. It was also contended that the plaintiffs can claim compensation only from the owner of the Power loom and not from the Tamil Nadu Electricity Board.

12.In order to establish that the defendants were negligent the plaintiffs examined the Supervisor Sengodan, as PW2. He is also the eyewitness to the occurrence. PW2 in his deposition though had contended that the electricity supply passed on to the transformer from the



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Power loom (consumer no.186), also had deposed that the electricity board did not provide any earth rod to change the HT lines on the transformer. He did not also explain properly as to how the earthing was done.

13.It is also pertinent to point out that though the defendants had contended that the accident was only due to the negligence on the part of the owner of the Power loom who operated the generator without 'earth leakage circuit breaker', they did not file any report in this regard. It was admitted by the learned counsel for the Tamil Nadu Electricity Board that no show cause notice was issued to the owner of the Power loom. In the absence of the same, it is not open to the defendants to state that the negligence was not on their part, but on the part of owner of the Power loom. In the circumstances, the owner of the Power loom is not a proper and necessary party to the suit and this aspect has been dealt with, in extenso, by the learned Additional District Judge, Fast Track Court, Namakkal, in his judgment. Suffice it to say that all the observations made by the trial Court are based on sound principles of law and on facts. After fixing negligence on the part of the appellants / defendants, the trial



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Court went on to work out the amount of compensation payable to the plaintiffs. Late Ravi was aged 31 years on the date of accident and he was married only on 01.02.2004, i.e. eight months prior to the accident as is seen from the marriage invitation (Ex.B6). The plaintiffs 2 & 3 are his mother and father aged 58 and 60 years respectively. In the circumstances, monthly income of the deceased was fixed at Rs.30,000/- and after deducting 1/3rd towards his personal expenses, the trial Court calculated the compensation, which is payable to the plaintiffs as Rs.6,48,000/-. The amount of compensation awarded to the appellants cannot be said to be exorbitant. In view of the same, points 1 to 3 are answered against the appellants and the present appeal is liable to be dismissed.

14. Accordingly, the appeal is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
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R. HEMALATHA, J.

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To

1. The Additional District Court (Fast Track Court), Namakkal.
2. The Section Officer, V.R. Section, High Court, Madras.

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