

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 19..04..2022
Orders Pronounced on : 28..04..2022

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.44038 of 2016

M.Selvi

... Petitioner

-Versus-

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
144, Anna Salai,
Chennai 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Paramathi Road, Namakkal District 637 001.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Salem, Salem District.
- 4.The Executive Engineer,
Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Namakkal, Namakkal District.

5.The Inspector of Police,
Venandur Police Station,
Namakkal District.
[Crime No.98 of 2016]

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 4 to pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) as compensation for the death of the petitioner's (late) husband Madheshwaran, aged 45, due to electrocution, based on the petitioner's representation dated 23.05.2016 within a time frame to be fixed by this court.

<i>For Petitioner</i>	<i>: Mr.S.Sathia Chandran</i>
<i>For Respondent(s)</i>	<i>: Mr.Abdul Kalam, Standing Counsel for RR1 to 4 Mr.P.Baladandayutham, Spl.G.P.for R5</i>

ORDER

This writ petition has been filed by the wife of late Madheswaran seeking a direction to the respondents 1 to 5 to pay a sum of Rs.25,00,000/- as compensation for the death of her husband who got electrocuted on 03.05.2016.

2. The case of the petitioner in brief is that her husband – Madheshwaran, aged about 45, was a permanent resident of Alavaipatti, Rasipuram Taluk, Namakkal District. On 28.04.2016 at about 02.00 p.m. a young boy by name Bhoobalan, aged 11 years, who was playing along with other children on the terrace of Vallaiakka Temple in the village caught into the high voltage wire, which was running at a low level 3 feet near the terrace of the temple and on hearing the scream from the public for help, the husband of the petitioner went to the spot to save the boy. At that time, he also came into contact with the high voltage wire and got electrocuted and sustained serious injuries. Both the husband of the petitioner and the boy were rushed to Government M.K. Medical College Hospital, Salem in an ambulance and admitted as inpatients. The husband of the petitioner died subsequently on 11.05.2016 despite treatment. The accident happened due to the negligence of the respondent corporation. The deceased is survived by the widow, the petitioner and two children, a son – Praveen Kumar and a daughter - Soumiya. The deceased was 45 years old at the time of accident and was doing agricultural coolie work. He was the sole bread winner of the family. Hence, the widow of the deceased has come up with the present writ petition seeking compensation.

3. The 2nd respondent filed a detailed counter affidavit *inter alia* contending that writ petition under Article 226 of the Constitution of India is not maintainable to enforce a civil liability arising out of the negligence alleged on the part of the respondent corporation. The 22 KV Mallur-Alavaipatti feeder was erected during 1960 and the trustees of Arulmighu Valliakka Temple without the knowledge of the respondent corporation built up a temple at Nadupatti underneath the above 22 KV feeder. Therefore, a notice was issued under Regulation 63 of the CEA (Measures relating to safety and Electric supply regulations, 2010) [hereinafter call as “the Regulations”] to the Dharmakarthas of the temple on 31.12.2014 informing that the construction of the temple was not permissible and if any untoward incidents taken place in the future, the temple alone would be responsible for such untoward incidents. For that, the temple issued a reply stating that HT line run over middle of the terrace of the temple is quite adequate and they would not go for any other further construction above the terrace of the temple already built.

4. The 2nd respondent specifically contended that the accident was due to the gross negligence on the part of the deceased and the trustees of the temple.

On seeing that the boy got electrocuted, the deceased should not have climbed up the terrace using a ladder and the untoward incident had taken place only because of the unwarranted action of the deceased. The deceased instead of engaging himself, could have either informed the nearby electricity office or fire service or police and the public who were experts in rescuing activities. The police complaint filed by the deceased before the Vennandu P.S. which was registered in Cr.No.98 of 2016 on 03.05.2016 for Accidental Electric Shock was closed after a thorough investigation holding that there was no negligence on the part of the respondent corporation. Therefore, the respondent corporation is not liable to pay any compensation to the petitioner.

5. I have considered the rival submissions carefully.

6. Admittedly, the husband of the petitioner got electrocuted on 03.05.2016 and died subsequently on 11.05.2016. It is also not in dispute that the incident of electrocution had taken place when the deceased attempted to rescue a body aged about 11 years who initially got electrocuted at the terrace of the temple while plucking mangoes. The deceased sustained serious injuries and was

rushed to the Government Hospital along with the boy who also got injured due to electrocution.

7. Now, the question is as to whether the accident had taken place due to the negligence of the respondent corporation or the deceased himself. The 2nd respondent in his counter affidavit admitted that over head HT line was erected during 1960 and thereafter, the temple authorities have put up temple under the feeder line and the construction of the temple was put up without the knowledge of the respondent corporation. After coming to know the fact that the temple has been constructed below the HT line, which was not permissible under Regulation 63 of the Regulations, the temple was put on notice for which the replied they would not put up any further construction on the terrace of the temple. Admittedly, thereafter, the respondent corporation did not pursue further action under the notice.

8. From the available records like observation mahazar and the statements of witnesses which were part of the criminal proceedings it could be seen that the over head HT line was passing three feet above the terrace of the temple. That

apart, under Section 68 of the Electricity Act, the respondents are bound to maintain over head HT lines properly. Rule 91 of the Electricity Rules also requires the respondent to provide safety devices for every over head electric line. That was not done in this case. The respondent corporation cannot put blame on the temple authorities that they put up the construction of the temple in violation of electricity laws. After the erection of the over head HT line, it is the primary duty of the respondent corporation to prevent the temple authority from putting up any construction under the HT line and also to take necessary action under law against the persons from putting up the constructions. As already stated, it is the admitted fact that the husband of the petitioner got electrocuted when he attempted to rescue an innocent boy from electrocution. While so, it is not on fair on the part of the respondent corporation to put the blame on the temple authority and the deceased that he ought not to have engaged himself in rescuing the boy from electrocution and instead he would have taken the assistance of the experts in rescuing activities. Considering these circumstances, this court is of the view that the accident had taken place due to the negligence of the respondent corporation.

9. So far as the quantum of compensation is concerned, there is no codified law regarding the payment of compensation, and it is settled that the principles laid for the Motor Vehicles Claims Tribunal, could be applied for deciding the quantum of compensation. It was stated that the deceased was aged 45 at the time of death and he was an agricultural coolie worker. Apart from the above, there was no materials available to determine the monthly income of the deceased. In the absence of any acceptable materials, merely based on the affidavit filed by the petitioner in support of the writ petition, no compensation could be awarded applying the principles laid down in the Motor Vehicles Act. However, in similar circumstances, this Court in number of cases has awarded a sum of Rs.5 lakhs as compensation to the legal heirs of the victim. In the said circumstances, I am of the considered view that awarding of Rs.5 lakhs as compensation to the petitioner and her children will be a fair and just compensation.

10. **In the result**, this Writ Petition is partly allowed and the respondents 1 to 4 are directed to pay a sum of Rs.5,00,000 (Rupees Five Lakhs only) as compensation directly to the petitioner within a period of twelve weeks from the

date of receipt of copy of this order. In default, the respondents are directed to pay interest at the rate of 6% per annum from the date of filing of this Writ Petition till date of payment of compensation in full. No costs.

Index : yes.

28..04..2022

Internet : yes.

Speaking / Non Speaking Order
kmk

To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
144, Anna Salai,
Chennai 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Paramathi Road, Namakkal District 637 001.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Salem, Salem District.
- 4.The Executive Engineer,
Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Namakkal, Namakkal District.

5.The Inspector of Police,
Venandur Police Station,
Namakkal District.

W.P.No.44038 of 2016

V.BHARATHIDASAN.J.,

kmk

Pre Delivery Order
in
Writ Petition No.44038 of 2016

28..04..2022