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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.29748 OF 2014

A.Bhuvaneshwari

...Petitioner

Vs.

1. Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Rep. by the Chairman
Anna Salai,
Chennai - 600 002.

2. Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
The Superintending Engineer
Kallakurichi, Villupuram District.

3. Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
The Assistant Engineer
Ulundurpet West Division
Villupuram District.

4. Elumali S/o. Sundaram

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records issued by the third respondent impugned letter dated on 11.09.2014 in Proceedings No.Ka.No.Umepo/kema/u.pattai/ko.v.ve/va.u/a.no95/14 illegal and quash the same and direct the third respondent to pay compensation to the petitioner sum of Rs.40,00,000/- due to the electrocution of death of the petitioner's husband.

For Petitioner : Mr.G.Ranganathan

For Respondents : Mr.L.Jai Venkatesh
1 to 3 Standing Counsel



O R D E R

The petitioner's husband for the purpose of doing agricultural work in his land, went to the field on 13.08.2014 at 07.00 am. Since he did not return in time, the petitioner went and search of him and found that he was lying on the barbed electric wire run between the land of the petitioner and the fence of the fourth respondent land. After finding that the petitioner's husband was electrocuted, she sought assistance of the villagers and they have taken to him to the Hospital, where her husband was declared dead due to electrocution. A criminal case was also registered under Section 304 (ii) IPC in Crime No.244/2014 against the fourth respondent and he was set at liberty by the Court on 14.08.2014 by way of anticipatory bail. The petitioner has claimed compensation for the death of her husband, which was rejected by the third respondent on the ground that the fourth respondent illegally used electricity to his fence and therefore, the third respondent is not liable to pay and that it is only the fourth respondent who illegally used the electricity is liable for his illegal act. Aggrieved over the same, the petitioner has preferred the above writ petition claiming compensation of Rs.40,00,000/- for the death of her husband.

2.Heard the submissions made on either side.

3.It is relevant to note that the Hon'ble Supreme Court in TAMIL NADU ELECTRICITY BOARD VS. SUMATHI AND OTHERS [2000 (4) SCC 543] has categorically held that the disputed questions of fact arose between the parties should not be entertained in writ petitions under Article 226 of the Constitution of India.

4.In yet another judgment in SDO. GRID CORPORATION OF ORISSA LTD., VS. TIMUDU ORAM [2005 (6) SCC 156] the Hon'ble Supreme Court has categorically held that the actions in tort and part of negligence are required to be established initially by the claimants. The mere fact that electric transmission wires belonging to the Electricity Board had snapped and the deceased had come into contact with wire and died by himself was not sufficient for awarding compensation. The Court is required to examine as to whether the wire had snapped due to negligence on the part of the Electricity Board as a result of which the deceased had come into contact with the wire. Therefore, when such disputed questions of fact are involved, it cannot be decided in exercise of jurisdiction under Article 226 of the Constitution of India and the matter has to be referred to the Civil Court.



5. In the present case, the husband of the petitioner said to have been fallen on the barbed electric wire fence. There is no proof to show that the electrocution of the barbed wire fence was permitted by the respondent Electricity Board. Further, there is no detail as to how the petitioner's husband came in contact to the fence. Further, there is no specific allegation of negligence on the part of the respondent Electricity Board. In order to clarify the negligence and liability to pay compensation, the petitioner has to establish the basic facts, which requires to be proved only by way of letting in evidence. Therefore, in the absence of any proof of negligence, this Court is not in a position to entertain the writ petition.

6. Therefore, following the dictum laid down by the Hon'ble Supreme Court in the judgments cited supra, liberty is granted to the petitioner to approach the Civil Court to redress her grievance. The period spent in the writ petition stands excluded for the purpose of limitation as per Section 14 of the Limitation Act, 1963.

7. In fine, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Chairman,
Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Anna Salai, Chennai - 600 002.
2. The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Kallakurichi, Villupuram District.



3. The Assistant Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Ulundurpet West Division, Villupuram District.

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+1cc to Mr.G.Ranganathan, Advocate SR. No. 21621
+1cc to Mr.L.Jai Venkatesh, Advocate SR. No. 21981

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MT (CO)
PR (20/04/2022)