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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.25945 of 2017

and

W.M.P.No.27503 of 2017

M.Y.Mohamed Sulthan

.. Petitioner

Vs.

1. The Secretary to Government,
Electricity Department,
Fort St.George, Chennai - 600 009.

2. The Chairman,
Tamilnadu Electricity Generation and
Distribution Corporation,
No.800, Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
Tamilnadu Electricity Generation and
Distribution Corporation,
Coimbatore - 641 012.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for records ending with the order of third respondent in his Letter No.011447/281/NB2/U2/KO Accident/2014, dated 20.11.2014 and to quash the same and consequently direct the respondents to pay a sum of rupees Ten lakhs as compensation for the death caused to Mohammed Rizwan due to the negligence of the respondents.

For Petitioner : Mr.N.Ishtiaq Ahmed

For Respondents : Mr.J.Ravindran, A.A.G.,
Assisted by Mr.Abul Kalam,
Standing Counsel for EB

O R D E R

(The case has been heard through video conference)

This writ petition has been filed challenging the order passed by the third respondent rejecting the petitioner's



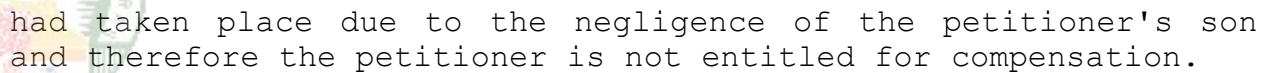
request for grant of compensation for the electrocution of his son.

2. The brief facts leading to the filing of this writ petition is that, the petitioner is residing at Door No.100/21, Al Ameen Colony, 1st Street, South Ukkadam, Coimbatore - 641 001. There was a High Tension (HT) electricity line lying between the power transformers and the electric post above the petitioner's residence and it was lying low, however the petitioner following all precautions was using his terrace. The petitioner also made repeated request to the respondent Corporation to shift the HT line, but there was no response from the respondents.

3. On 07.06.2014, when the petitioner's eight years old son by name Mohammed Rizwan, while checking water in the water tank the wire tied between the two posts got snapped and it fell on the live HT wire and due to which the petitioner's son got electrocuted. Immediately thereafter the petitioner filed a complaint and a criminal case has been registered. As the accident had taken place due to the negligence of the respondent corporation, the petitioner sent a legal notice demanding compensation of Rs.10 lakhs. But the third respondent by the impugned order rejecting the request on the ground that the accident had taken place due to the negligence of the petitioner and hence he is not entitled for any compensation. Now, challenging the same, the present writ petition has been filed.

4. The third respondent has filed a counter affidavit stating that the HT line passing over the petitioner's house and he has increased the height of the building by constructing first floor. The line has been put up before the construction of the first floor of the building and hence a notice has been issued to the owner on 12.02.2013 to give an application for shifting the existing line as per the orders of the Tamil Nadu Electricity Regulatory Commission and Notification dated 21.07.2004 and further the equipments shifting charge, the cost of shifting service, line, structures and equipments shall be borne by the consumer and the petitioner has not made any application to shift the line. That apart, the accident had taken place due to the negligence of the petitioner's son by putting a wire between two posts of the HT line and the deceased boy unknowingly touched the same and met with the accident.

5. Further according to the respondents as per Regulation 5 (6) (1) of the Tamil Nadu Electricity Supply Code, it is the duty of the consumer to seek for shifting of electricity service line and he has to pay the entire cost of shifting. Since the petitioner did not come forward to take steps to shift the HT line, he cannot put the blame on the respondents as the accident



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9. Under Section 68 of the Electricity Act, the respondents are bound to maintain overhead HT lines properly. Rule 91 of the Electricity Rules also requires the respondents to provide safety devices for every overhead electric line. That was not done in this case. The respondent Corporation cannot put the blame on the petitioner that he raised the building height by constructing first floor. After the erection of the overhead HT line, it is the primary duty of the respondent Corporation to prevent the petitioner from putting up any construction under the HT line. As already stated, it is an admitted fact that the son of the petitioner got electrocuted when he unknowingly touched the overhead electric line. While so, it is not fair on the part of the respondent Corporation to put the blame on the petitioner, stating that the deceased ought not to have touched the live wire. Considering these circumstances, this Court is of the view that the accident had taken place due to the negligence of the respondent corporation.



10. So far as the quantum of compensation is concerned, the deceased was aged about 8 years and he was a school going boy and he was a non-earning member and 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.5,00,000/- as compensation to the legal heirs of the victim. In the said circumstances, I am of the considered view that awarding of Rs.5,00,000/- as compensation to the petitioner will be a fair and just compensation.

11. In the result, this Writ Petition is partly allowed and the respondents are directed to pay a sum of Rs.5,00,000/- (Rupees five lakhs only) towards compensation 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. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Secretary to Government,
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Tamilnadu Electricity Generation and
Distribution Corporation,
Coimbatore - 641 012.



+1cc to Mr.N.Ishtiqahmed, Advocate, S.R.No.11806

+1cc to Mr.M.Abulkalam, Advocate, S.R.No.12846

+1cc to the Government Pleader, S.R.No.12354

W.P.No.25945 of 2017
and
W.M.P.No.27503 of 2017

RK (CO)
SU (16/05/2022)