



W.P(MD).No.14974 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 04.11.2022

ORDER PRONOUNCED ON : 16.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.14974 of 2013

and

M.P(MD)No.1 of 2013

S.Suriyagandhi

... Petitioner

Vs.

**1.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited., (TANGEDCO),
K.Pudur,
Madurai-625 007.**

**2.The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited.,
Usilampatti Division,
Usilampatti,
Madurai District.**

**3.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited.,
Town Circle,
P.P.Chavadi,
Madurai-625 016.**

..... Respondents



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PRAYER: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus, to call for the records of the 3rd respondent impugned order in Ka.No.U.Po./Na.Pi.Pi.Chavadi/Va.Aa/Ko.Kattu/A.No.211/14 dated 13.08.2013 and quash the same as illegal and consequently directing the respondents to pay the petitioner a sum of Rs.18,42,500 along with interest towards compensation for the death of her husband Late M.Sathuragiri on 21.04.2013 which was caused by the electrocution due to the negligence of the respondents.

(Prayer amended vide Court Order dated 19.10.2022 in WMP(MD). 18236/2022.)

For Petitioner : Mr.M.Kannan

For Respondents : Mr.S.Dheena Dhayalan
Standing Counsel

ORDER

The present writ petition has been filed challenging an order passed by the third respondent, under which the request of the writ petitioner for payment of compensation for the death of her husband due to electrocution has been rejected.

2. According to the petitioner, her husband was working as a Security Officer in a courier company, earning a sum of Rs.7,000/- (Rupees Seven



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Thousand only) per month. They have 2 children, aged about 10 years and 9 years at the time of accident. The petitioner's husband while on his way to take bath in a coconut grove on 21.04.2013, the overhead line got snapped and fell on the petitioner's husband and he died due to electrocution.

3. The petitioner has further stated that an F.I.R in Crime No.331 of 2013 was registered by the Inspector of Police, C3-SS.Colony Police Station, Madurai. The inquest report revealed the cause of death as electric shock and the postmortem report also revealed that the petitioner's husband had died due to electrocution.

4. The petitioner has further submitted that the live wire had got snapped only due to the negligent attitude of the respondent board and hence, they are liable to pay compensation for the death of the petitioner's husband. The petitioner has made a representation on 02.07.2013 for grant of compensation. The said representation was rejected by the third respondent herein under the impugned order stating that due to heavy rain, this has happened and hence, they are not responsible for the accident. This order is under challenge in the present writ petition.



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5. The learned counsel for the petitioner had contended that as per Section 68 of Electricity Act 2003, the respondent board is responsible for clearing the trees in order to avoid interruption or interference in the supply of electricity. The learned counsel for the petitioner also relied upon Regulation 20 of Tamil Nadu Electricity Distribution Code to contend that the Electricity Board, being a licensee, shall conduct a pre-monsoon inspection and other preventive maintenance activities for maintaining the lines and equipment and ensure its compliance at all levels. If they had really conducted a preventive maintenance programme, this accident would have been avoided. The learned counsel for the petitioner further contended that the coconut leaves have fallen upon the live electrical wire, which had resulted in snapping of the said wire. If the respondent authorities had conducted regular inspection and maintenance activities, they would have cleared the standing trees or interfering objections away from the line, which would have prevented this unfortunate accident.

6. The learned counsel for the petitioner relied upon **2012 (2) CTC 644 (Alamelu Vs. The State of Tamil Nadu, Represented by its Secretary to Government, Energy Department and others)** to contend that where a pre-monsoon inspection was not conducted for the purpose of taking



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preventive measures, it would amount to negligence on the part of the respondent board. The learned counsel for the petitioner further relied upon the judgment of the Hon'ble Supreme Court reported in **2002 (2) SCC 162 (M.P.Electricity Board Vs. Shail Kumari and others)** to contend that where the board is having the responsibility to supply electric energy in a particular locality, if it is likely to cause injury or death of a human being, the primary liability to compensate the sufferer is on the supplier of the electrical energy. Relying upon the said judgment, he further contended that the Hon'ble Supreme Court has invoked the principle of "strict liability" and hence, even assuming that the victim could have avoided such an accident, the board should be held liable for the accident. The learned counsel for the petitioner further relying upon the judgment of this Court in **W.P.No.38175 of 2003, dated 28.03.2011 (A.Murugan Vs. The Government of Tamil Nadu, represented by the Secretary to Government, Electricity Department and others)** contended that in a similar case, where the overhead line had snapped due to falling of the coconut leaves, this Hon'ble Court was pleased to hold that it was not unnatural and it cannot be termed as an Act of god. This Court has proceeded to hold that there is negligence on the part of the electricity board, who are otherwise responsible for maintaining the LT lines. The learned counsel for the petitioner further relied upon a judgment of this Court



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in *W.P.No.14011 of 2010, dated 23.02.2012 in (A.Subramani Vs. Tamil Nadu Electricity Board, Represented by its Chairman and others)* to

contend that the board is under an obligation to cut and remove the trees, which are slanting towards the electrical lines. In case, the wire got snapped on account of the fall of trees or coconut leaves, the electricity board alone is responsible to the third parties. Relying upon the above said provisions and the judgments of the Hon'ble Supreme Court and our High Court, the learned counsel for the petitioner has contended that the snapping of the live electrical wire due to falling of the coconut leaves is only because of the negligence on the part of the electricity board and hence, they are liable to pay compensation.

7. The learned counsel for the petitioner has further contended that the deceased was earning a sum of Rs.10,000/- (Rupees Ten Thousand only) per month and he died at the age of 39. Applying multiplier of 15 and deducting personal expenses of 25%, the loss of income would be Rs.16,87,500/- (Rupees Sixteen Lakhs Eighty Seven Thousand and Five Hundred only) and claimed compensation of Rs.18,42,500/- (Rupees Eighteen Lakhs Forty Two Thousand and Five Hundred only) after adding other heads.



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8. Per contra, the learned standing counsel appearing for the respondent board had contended that the live wire was properly maintained by the Tamil Nadu Electricity Board. The incident had occurred only due to the falling of coconut branch on the service line. This is due to natural calamity and hence, the accident has not happened due to any lack of maintenance or negligence on the part of the electricity board. He further contended that the manner of accident and the negligence on the part of the electricity board are being disputed and hence, the petitioner should be directed to approach the competent Civil Court for compensation. Hence, he prayed for dismissal of the writ petition.

9. I have carefully considered the submissions made on either side and perused the records.

10. The petitioner's husband had died due to electrocution on 21.04.2013 because of falling of a live wire on his shoulders. The live wire had got snapped due to the falling of coconut leaves and thereafter, the live wire has fallen on the shoulders of the writ petitioner's husband and he got electrocuted. The above said facts are not in dispute.



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11. The petitioner has contended that the respondent board is duty bound to properly conduct pre-monsoon inspections as contemplated under Regulation 20 of Tamil Nadu Electricity Distribution Code. Had they conducted such an inspection, the interfering branches or trees would have been groomed and this accident would not have happened. However, the learned standing counsel for the respondent board had submitted that due to heavy rain and winds, the coconut leaves have fallen on the wire and this could only be termed to be an Act of god. When there is no allegation of lack of maintenance or negligence on the part of the electricity board, the board cannot be made liable to pay compensation.

12. The Hon'ble Supreme Court in its judgment reported in **2002 (2) SCC 162 (M.P.Electricity Board Vs. Shail Kumari and others)** in paragraph 7 and 8 as held as follows:

“7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply



have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the look out of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.

8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as "strict liability". It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the



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harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.”

13. A learned Single Judge of this Court in a judgment reported in ***2012 (2) CTC 644 (Alamelu Vs. The State of Tamil Nadu, Represented by its Secretary to Government, Energy Department and others)*** in paragraph no 13 as held as follows:

“13. The Board being the licensee was expected to conduct pre-monsoon inspection for the purpose of taking preventive measures within the meaning of Regulation 20 of Supply Code. There is nothing on record to show that the Board officials have discharged their duty.”

14. A learned Single Judge in judgment reported in ***W.P.No.14011 of 2010, dated 23.02.2012 in (A.Subramani Vs. Tamil Nadu Electricity Board, Represented by its Chairman and others)*** in paragraph no 13 and 14 as held as follows:

“13. The Board being the licensee was expected to conduct pre-monsoon inspection for the purpose of taking preventive measures within the meaning of Regulation 20 of



Supply Code. The Board cannot plead that the owner of the property was responsible for the maintenance of line. There is nothing on record to show that the Board officials have conducted pre-monsoon inspection at any time before the incident.

14. The Electricity Board stated that the owner of the coconut Thope was bound to cut the coconut leaves. The Electricity Board established a local office at Ayyaloor. The local office has got field staff and they were expected to inspect the line periodically. In case any trees were slanting towards the line, it was their obligation to cut and remove such trees. There is no requirement for taking permission from the owner for the purpose of cutting such trees. Like the Railways doing maintenance work in respect of railway line, the Electricity Board has to maintain the electricity line. In case the wire is snapped, on account of the fall of trees or coconut leaves, the Electricity Board alone is responsible to third parties. Even in respect of motor vehicle cases, the primary liability is on the Insurance Company to satisfy the claim and thereafter, to get reimbursement from the insured. Similarly, primary responsibility lies on the Electricity Board to make payment. The claimants cannot be dragged to a never ending litigation claiming compensation.”



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15. The learned Single Judge of this Court in judgment ***W.P.No.38175 of 2003, dated 28.03.2011 (A.Murugan Vs. The Government of Tamil Nadu, represented by the Secretary to Government, Electricity Department and others)*** in paragraph 8 as held as follows:

“8.As discussed above, it is for the respondents to satisfy that all proper steps have been taken. It is also not the case of the respondents that at the time of the accident the live wire got snapped. When it is not in dispute that there were coconut trees standing, the respondents being the public authority ought to have foreseen a situation in which the leaves of the said trees would fall on the overhead line. It is also not the case of the respondents that blowing of wind was unnatural. In other words, they were quite aware of the fact that the wind is blowing with high velocity in the particular area and there are standing coconut trees. Therefore, even assuming the reasons assigned by the respondents are correct it cannot be termed as an Act of God. Hence, this Court is of the view that the undisputed facts involved in the present case on hand would clearly disclose that it is negligence on the part of the respondents who are otherwise responsible for maintaining the L.T. Line.”



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16. A careful perusal of the judgment of the Hon'ble Supreme Court and the judgments of our High Court clearly indicate that the board is responsible for conducting regular inspections for clearing the trees and other interferences in the electrical lines. They have to cut or groom the trees or branches as the case may be to avoid disturbance to the electrical lines. This statutory obligation is cast upon the board as contemplated under Regulation 20 of Tamil Nadu Electricity Distribution Code. However, in the present case, there are no records to establish that such exercise was undertaken by the respondent board. Not only the maintenance and up keep of lines, but preventing trees or branches from interfering in the electrical lines is also the duty cast upon the electricity board. The non-performance of the said statutory obligation could only be termed to be lack of maintenance coupled with negligence on the part of the respondent board.

17. As extracted supra, the Hon'ble Supreme Court in paragraph no.7 of the judgment reported in 2002 (2)SCC 162 has held that if any live wire got snapped and fell on the public road, the electric current thereon should automatically get disrupted. In the present case, though the electrical live wire got snapped, there were no technical arrangements on the side of the



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respondent board to see that the electricity got disrupted. Had such arrangement was there, this unfortunate accident would not have happened.

18. As pointed out by the Hon'ble Supreme Court cited supra, the respondent board is the only authority, which has been conferred with statutory powers to supply electrical energy in a particular locality. Hence, the board cannot contend that some third party had committed mischief and the electrocution had happened because of the said fact.

19. The liability upon the electricity supplier, in law is "Strict Liability". In cases of strict liability, where the electricity supplier is held liable irrespective of whether the victim could have avoided the particular harm by taking precaution, the board cannot contend that the falling of coconut leaves on the live wire is due to natural calamity or an Act of god. Therefore, viewed from any angle, the respondent board is liable for payment of compensation for the death of the petitioner's husband due to electrocution.

20. The death due to electrocution or the manner of electrocution are not in dispute. The only defence that was raised by the electricity board was that it had happened due to natural calamity/Act of god, which has been



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rejected by this Court in the above paragraphs. Hence, the contention of the respondent board that the petitioner should be driven to a competent Civil Court for seeking compensation is not legally sustainable.

21. Now, let us consider the issue of quantum of compensation which the petitioner is entitled to receive. Admittedly, the petitioner's husband was 39 years old on the date of accident and he had died leaving behind his wife and 2 children. In the writ affidavit, the petitioner has mentioned the salary of her husband as Rs.7,000/- (Rupees Seven Thousand only) per month out of his employment as Security Officer in a courier company. The avocation or monthly income as stated in the writ affidavit has not been disputed in the counter affidavit. After deducting 1/4th towards personal expenses from the salary of the writ petitioner's husband, the monthly salary would be Rs.5,250/- (Rupees Five Thousand Two Hundred and Fifty only).

Loss of income $5,250 \times 12 \times 15$	= 9,45,000
Spousal consortium and filial consortium	= 1,20,000
Funeral expenses	= 15,000
Transportation charge	= 5,000

Total compensation	= 10,85,000/-



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22. In view of the above said discussions, the petitioner and her 2 children would be entitled to a compensation of Rs.10,85,000/- (Rupees Ten Lakh Eighty Five Thousand only) with interest at the rate of 6% from 01.05.2013 till the date of realisation. The petitioner would be entitled to Rs. 4,00,000/- (Rupees Four Lakh only) along with accrued interest and her children would be entitled to the balance amount equally along with accrued interest. The said amount shall be disbursed accordingly within a period of twelve (12) weeks from the date of receipt of a copy of this order.

23. With the above said observations, this Writ Petition stands allowed to the above said extent. No costs. Consequently, connected Miscellaneous Petition is closed.

16.11.2022

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Internet : Yes/No

Index : Yes/No



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To

- 1.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited., (TANGEDCO),
K.Pudur,
Madurai-625 007.
- 2.The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited.,
Usilampatti Division,
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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