

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.09.2022

ORDER PRONOUNDED ON : 26.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.20445 of 2013
and
WMP(MD).No. 22966 of 2019**

1.Eswari

2.Samuthrapandi

3.Nalasamy @ Prabhu

4.Balakrishnan

5.Petchiammal

....Petitioners

Vs

1.The Secretary
Ministry of Electricity
St. George Fort
Tamil Nadu Secretariat, Chennai

2.The Superintending Engineer (Transmission-1)
Tamil Nadu Electricity Board
Anna Salai
Chennai -02

3.The Superintending Engineer (GCC)
Madurai Division
TNEB Office
K.Pudur, Madurai

4.The Assistant Executive Engineer
Theppakulam
Pudu Ramnad Road
Madurai 625 009

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay a compensation of Rs.43,20,000/- to the petitioners for the death of the petitioners' son within a time frame fixed by this Court.

For Petitioners	: Mr.B.A.Muruganantham
For R1	: Mr.A.Baskaran Additional Government Pleader
For R2 to R4	: Mr.S.Deenadhayalan Standing Counsel

ORDER

The writ petition has been filed for mandamus seeking a direction as against the respondents electricity board for payment of compensation of Rs.43,20,000/- for the death of the first and second petitioner's son.

2.The first and second petition's son and the brother of the petitioners 3 to 5 who was aged about 23 years had died due to electrocution on 25.11.2012. According to the petitioners, the deceased was running a service station. At the time of fatal accident, the deceased was working inside the

gully area constructed for the purpose of servicing the motor vehicles. There was a HT power line running over the building. The said power line was running on the roof of the said house. Suddenly electricity passed through the said unused power line and the deceased got electric shock and he died.

3.The learned counsel for the petitioners had contended that the respondent authorities have left unattended a high-tension wire running overhead and failed to keep them in erect position. Despite several requests made by the petitioners, the respondents authorities have replied that it was a waste line and hence there is no possibility of electricity passing through the said line. However, suddenly on the fatal day, electricity passed through the water sump and gushed into the hands of the deceased and the deceased died due to electrocution. Hence, according to the learned counsel for the petitioners, only due to negligence on the part of the respondent authorities, the said accident has taken place and therefore, the respondent authorities are liable to compensation.

4.The learned counsel for the petitioners had relied upon a F.I.R registered in Crime No.984 of 2012 and contended that there was no electricity supply at the time when the accident took place and suddenly at around 2.00 p.m, the electricity was restored through the waste line and

deceased got electrocuted. The learned counsel had further relied upon a postmortem report which discloses that there are three electric burnt marks on the centre of the Chest of the deceased. He had further relied upon the photographs to contend that a high-tension electrical line was running overhead of the building and it was touching the building.

5.Per contra, the learned Standing Counsel appearing for the respondents 2 to 4 had filed a counter affidavit and contended that there are no electrical high-tension line over and above the house of the writ petitioners. The first and second petitioner's son was running a water service station and he was using generator at the time of power shutdown. The petitioners' son came in contact with his generator and got electrocuted. Hence, there is no negligence on the part of the electricity board. The petitioners alone have not properly maintained the electricity service connection within their own premises. The learned counsel also relied upon the accident inspection report filed by the respondent authorities to contend that there was no electricity supply to the said place at the time of accident and hence, the accident is not due to the electricity supply from the board. He had also relied upon the inspection report which discloses that a diesel generator was used for servicing the motor vehicle. Only the said diesel generator has caused electrocution. He had further contended that there are

serious factual disputes with regard to the manner of accident and hence, the writ petition is not maintainable.

6.I have considered the submissions made on either side and perused the materials available on record.

7.There is no dispute that the first and second petitioner's son had died on 25.11.2012 at about 2.00 p.m while he was servicing a vehicle in his service station.

8.According to the petitioners, a high-tension wire was passing overhead their building which was not in use. Suddenly electricity passed through the said waste line, passed into the building through iron pipeline and went through the water which was used for servicing the vehicle. Due to that the deceased got electrocuted. Hence, according to the petitioners, there was negligence on the part of the respondent authorities.

9.However, the respondent authorities have contended that there was no electricity at that point of time and the petitioner was using a diesel generator of serving the vehicle. Only due to improper maintenance of the diesel generator, the petitioners' son has got electrocuted and he had passed away.

10.A perusal of the photographs would establish that some high-tension electric wires were passing above the building of the writ petitioners. However, they are just touching the concrete structure and it could not be found out whether it could result in leakage of electricity into the building. Moreover, the learned counsel for the respondents had contended that the accident has taken place within the premises of the writ petitioners' family in which servicing of vehicle was going on. According to the learned counsel for the respondents there was no allegation of any snapping of electrical wire or falling of any electrical pole. The respondents have strongly disputed the supply of electricity over the said high-tension line. From the above said facts, it is clear that there is a factual dispute with regard to the manner in which the accident has taken place. Whether it is due to passage of electricity from the high tension line which gushed into the building or due to electrical shock, that emanated from the diesel engine operated by the deceased. Since a factual dispute has arisen, this Court exercising its power under Article 226 of Constitution of India, cannot decide about the compensation.

11.In view of the above said facts, the writ petition is dismissed with liberty to the petitioners to approach the competent civil Court for claiming

the compensation. The parties are at liberty to raise all the pleas before the competent Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2022

Internet : Yes/No
Index : Yes/No
msa

To

The Secretary
Ministry of Electricity
St. George Fort
Tamil Nadu Secretariat, Chennai

W.P(MD).No.20445 of 2013

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.20445 of 2013
and
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26.09.2022