



W.P(MD)No.9652 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9652 of 2019

Balamurugan

... Petitioner

v.

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai – 600 002.
- 2.The Chief Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli Division, Maharaja Nagar,
Tirunelveli – 627 011.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Electricity Distribution Circle,
Virudhunagar, No: 1/65, Ramamoorthy Road,
Virudhunagar, Virudhunagar District.
- 4.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Seithur, Rajapalayam Taluk,
Virudhunagar District.

... Respondents



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Prayer: 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 just and reasonable compensation a sum of Rs.25,00,000/- (Twenty Five Lakhs only) for the death of petitioner's son late Ganesh Kumar aged about 17 years old who died due to electrocution.

For Petitioner : Mr.R.Karunanithi

For Respondents : Mr.S.Deenadhayalan, standing counsel

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a coolie worker. His son Ganesh Kumar died due to electrocution on 12.03.2019. He was 17 years old and writing 12th standard public examination. The occurrence took place in an agricultural field. The petitioner's son was crossing the said field while returning home. He had unknowingly stepped on live snapped electric main line wire. It is not as if during the relevant time, there was cyclonic activity. The respondents cannot attribute the occurrence to "Act of God". The electric wire had snapped and the electricity supply was not cut off immediately. In any event, the petitioner's son cannot be blamed or fastened with negligence.



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3. In these circumstances, I have to necessarily apply the principle of absolute liability. It is true that the respondents have paid a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) as *ex-gratia* payment, but that is absolutely insufficient. The Hon'ble Supreme Court in the decision reported in **(2002) 2 SCC 162 (M.P. Electricity Board V. Shail Kumari and Others)** 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



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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 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."

I had occasion to deal with similar issue in W.P(MD)No.15166 of 2020 (G.Sendhattikalaipandian v. The Inspector of Police Alangulam police station, Virudhunagar District). It is true that the order passed by me has been put to challenge in Writ Appeal. But the Writ Appeal is only in respect of the



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direction to give appointment to the sibling of the deceased on compassionate ground. The direction to pay compensation had already been complied with by TANGEDCO. I am therefore justified in relying on earlier order. In the said decision, I had held as follows :

“10.As early as in the year 1986, the Constitution Bench of the Hon'ble Supreme Court in M.C.Mehta Vs. Union of India (1987) 1 SCC 395 held that we need not feel inhibited by technical considerations surrounding the rule in Rylands Vs. Fletcher (1868) L.R.3 H.L. 330 and that we have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialized economy. They therefore held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-avis the tortious principle of strict liability under the rule in Rylands Vs. Fletcher.”

It had also been held that compensation payable in such cases can be determined by applying a formula adopted for computing damages in motor accident cases. The petitioner's child Ganesh Kumar was 17 years old and was



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studying 12th standard. He had secured 377 out of 500 in 10th standard examination. I can definitely come to the conclusion that the child was fairly above average. After completing 12th standard examination, he could have joined college and probably in another five or six years, he would have got income earning job. All these prospects have been aborted on account of this unfortunate occurrence.

4.Taking into account the overall facts and circumstances, I am of the view that the family of the deceased has to be paid a compensation of Rs. 12,00,000/-. Since 2,00,000/- has already been paid, the respondents are directed to pay a further sum of Rs.10,00,000/-. A Sum of Rs.5,00,000/- shall be paid to the petitioner within twelve weeks from the date of receipt of a copy of this order and a balance amount of Rs.5,00,000/- will be deposited in the name of the petitioner's wife. The deposit will be in an interest bearing account for a period of five years in a nationalized Bank.

5.This writ petition is allowed accordingly.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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