



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 21.12.2021
PRONOUNCED ON : 12.01.2022
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**
W.P.(MD)No.19778 of 2021

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T.Muthu

... Petitioner

vs.

1.The Chairman and Managing Director,
Tamilnadu Electricity Board Limited,
NPKKR Maligai,
144, Anna Salai, Chennai - 600 002.

2.The Chairman and Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited (TANGEDCO),
10th Floor, NPKKR Maligai,
144, Anna Salai, Chennai - 2.

3.The Superintending Engineer,
TANGEDCO,
Race Course Road, Madurai - 600 002.

4.The Assistant Engineer,
Tamilnadu Electricity Board,
Karupayurani Post,
Sivagangai Road, Madurai- 600 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Respondents 1 and 2 and anyone under their authority to grant a compensation of Rs.20,00,000/- for their due negligence, careless and breach of duty on the petitioner representation FIR, dated 20.09.2019 with the law.

For Petitioner :Mr.R.Prakasam

For Respondents :Ms.M.Rajeswari

O R D E R

This Writ Petition has been filed in the nature of Mandamus seeking a direction against the Chairman and Managing Director, Tamilnadu Electricity Board Limited and the Chairman and Managing Director, Tamilnadu Generation and Distribution Corporation Limited (TANGEDCO)/ Respondents 1 and 2 to grant compensation of Rs.20,00,000/- for negligence, careless and breach of duty, which caused the death of the son of the petitioner due to electrocution.



2.The son of the petitioner, by name, M.S.Manojkumar was aged 13 years. On 19.09.2017, he went out of the house to look after his grandmother in the next street at around 08.00 pm. At that time, it was raining. While crossing the lane, he touched an electric pole kept by a private person, through which, the electricity supply given by the Tamil Nadu Electricity Board passed. It is claimed that earthing facility was not provided in the pole. The boy was electrocuted and he died. Claiming that the death was due to negligence of the respondents, the Writ Petition has been filed. The petitioner had sent a representation. But, there was no response.

3.A counter had been filed on behalf of the respondents, denying negligence. It was stated that the Electricity Board had often advertised that electric poles should not be touched during rain. It was also stated that because the deceased had come into contact with the wire of the electricity transmission, he had died. This would not by itself be a reason to claim that there was negligence on the part of the respondents. It was also stated that there was heavy rain and wind and therefore, the boy died due to the Act of God.

4.It was stated that a sum of 5,00,000/- has been proposed to be granted as compensation by the Board proceedings in events of accident. Reliance was also placed on a judgment of Honourable Supreme Court in **Gothavari Sugar Mills vs State of Maharashtra and others**, reported in (2011) 2 SCC 439.

5.Before proceeding further, this Court must express its strong condemnation that the Respondents 1 to 3, against whom relief was sought had not even thought of filing a counter or responding to the Court. May be, since they are holding the posts of Chairman and Managing Director, TNEB and TANGEDCO and Superintending Engineer, respectively, they are of the opinion that it is below their dignity to put their thoughts in writing with respect to a claim seeking compensation for the death of a young boy of 13 years over whom they are not directly bothered. They appear to have no sense of duty either to a citizen or to this Court and this Court can state that Respondents 1 to 3 have lost their right or authority to continue in their particular offices in their position. As public servants, they have a duty to discharge to every citizen of the Country. They may deny the contentions raised in the Writ Petition, but they cannot hide behind a counter filed by the Assistant Engineer, Karupayurani, Madurai, who is the fourth respondent herein. If they feel that the fourth respondent can represent them in Court proceedings, it only shows that they have scant regard for the dignity of their office.

6.Heard arguments advanced by Mr.R.Prakasam, learned Counsel for the petitioner and Ms.M.Rajeswari, learned Counsel for the respondents.



7. During the course of arguments, the learned Counsel for the petitioner insisted that compensation must be paid and the learned Counsel for the respondents denied liability to pay any compensation.

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8. The facts are quite simple. The son of the petitioner, at 08.00 pm on 19.09.2017, when it was raining, crossed the road to go to his grandmother's house to take care of her well being. He came into contact with an electric pole and died owing to electrocution. Live electricity was being transmitted on the pole. Electricity is transmitted only by the respondents. They generate and they supply through wire, which pass through the poles. There can be no two opinions. I am quite dismayed by the conduct of the respondents to question the nature of death of boy during the course of arguments.

9. A perusal of the postmortem report conducted on 20.09.2019 at 12.40 pm and which was pursuant to the registration of a FIR in Cr.No.331 of 2019 under Section 174 of Cr.P.C., by the Sub Inspector of Police, Silaiman Police Station, reveals as follows:

"Appearance found at the postmortem:-

Moderately nourished body of a male, aged about 13 years Finger and toe nails are blue.

The following ante mortem injuries are noted on the body:-

1. An Electric burnt mark measuring 6 cm x 0.5 cm seen over palmar aspect of the right thumb

2. An Electric burnt mark measuring 8 cm x 5 cm seen over outer aspect upper 1-3rd of right thigh.

On dissection: The base of the burnt areas are hard, keratinized with ever led margins.

3. Abrasion measuring 1 cm x 0.5 cm seen near right eye.

4. Abrasion measuring 0.5x0.5 cm seen over root of nose"

It was stated that opinion is reserved pending report for viscera sent for chemical examination.

10. The final report, dated 07.01.2021 given by Dr.S.Mathipa, M.B.B.S., Assistant Surgeon, Department of Forensic Medicine, Madurai Medical College, Madurai and attested by Dr.G.Natarajan, Professor, HOD., District Police Surgeon, Department of Forensic Medicine, Madurai Medical College, Madurai, is as follows:

"I am furnishing my final opinion as to the cause of death of the deceased referred to above based on the Chemical Examination report.

FINAL OPINION:

"POSTMORTEM FINDINGS, HISTORY OF THE CASE ARE CONSISTENT WITH THE DECEASED WOULD APPEAR TO HAVE DIED OF ELECTROCUTION."



11.It is thus clear that the boy died of electrocution.

12.By the Board Proceedings of the respondents herein, which had been referred by them in the counter affidavit and dated 16.10.2019 in Proceedings No.6, the respondents had held over to the general public that they would pay a compensation of Rs.5,00,000/- immediately when death due to electrocution comes to their knowledge.

13.In **(2011) 2 SCC 439** in the case of **Godavari Sugar Mills Limited vs State of Mahrastra and others**, the Honourable Supreme Court held as follows:

"8.....

(i) Normally, a petition under Article 226 of the Constitution of India will not be entertained to enforce a civil liability arising out of a breach of a contract or a tort to pay an amount of money due to the claimants. The aggrieved party will have to agitate the question in a civil suit. But an order for payment of money may be made in a writ proceeding, in enforcement of statutory functions of the State or its officers. (Vide *Burmah Construction Co. v. State of Orissa* [AIR 1962 SC 1320 : 1962 Supp (1) SCR 242] .)

(ii)....."

14.That was a case wherein, the appellant before the Honourable Supreme Court was found to have surplus land and under Section 21 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, the said surplus land was taken over. Compensation was paid. Interest at 3% was granted for the award amount. Seeking 9% interest, the appellant had initiated legal proceedings, which reached the door steps of Honourable Supreme Court. There, the Honourable Supreme Court had held that compensation was based on a particular enactment and a Writ Petition may not strictly lie, but still held that a Writ Petition would lie for compensation against State Officials.

15.In the present case, the Board Proceeding stipulate that the respondents would pay a sum of Rs.5,00,000/-. I hold they must pay that Rs.5,00,000/-. Thereafter, if the petitioner seeks a higher amount, the petitioner can institute a suit. The respondents can participate in the said judicial proceedings.

16.Here, the facts are very clear. The boy died due to electrocution while touching the electric pole. It had been very clearly stated that the boy died due to contact with a live wire which was hanging from the electric pole in the street. Negligence is apparent on the face of the records.



17. In view of the fact that the Electricity Board themselves have come forward by their Board Proceeding to pay a compensation of Rs.5,00,000/-, in case of death due to electrocution, a direction is issued to the respondents to pay the sum of Rs.5,00,000/- to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to approach the Civil Court seeking further compensation in manner known to law.

18. I would once again express extreme dismay at the attitude of the Respondents 1 to 3 in hiding behind an Assistant Engineer/fourth respondent and in not appearing before the Court by filing a counter affidavit committing themselves or not committing themselves to the claim of the petitioner, who is claiming compensation for the death of his son, a young Indian citizen.

19. The Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To

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Karupayurani Post,
Sivagangai Road, Madurai - 600 020.

+1 CC to M/s.R.PRAKASAM, Advocate (SR-1580[F] dated 12/01/2022)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-1964[F] dated 20/01/2022)

W.P. (MD) No.19778 of 2021

12.01.2022