



W.P.(MD).No.21127 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 25.07.2022

ORDER PRONOUNDED ON : 27.07.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.21127 of 2014

Ayyappan

....Petitioner

Vs

1.The Chairman Cum Managing Director
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO)
NPKRR Maaligai
No.144, Anna Salai, Chennai 600 002

2.The Superintendent Engineer
Kanyakumari Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO)
Nagercoil, Kanyakumari District

....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 sum of Rs.5,00,000/- (Rupees five lakhs only) towards compensation for the death of the petitioner's daughter aged about 12 years who met with an accident due to electricity shock on 13.02.2008 at Kanjiravilai, Rajakkamangalam and Post, Kanyakumari District due to the negligence on the part of the respondents to the petitioner and his family.



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For Petitioner : Mr.K.Vamanan

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The writ petition has been filed seeking compensation of a sum of Rs.5,00,000/- towards death of the petitioner's daughter due to electrocution.

2.According to the petitioner, his minor daughter aged 12 years on her way to tuition at about 6.00 a.m while she was walking, the overhead electric live wire had fallen down and she got in contact with the live electric wire and thrown away. Though she was admitted to a private hospital immediately, the doctor examined and found that she had already died due to electrocution.

3.The learned counsel for the petitioner had contended that the petitioner had lodged a complaint before the Rajakkamangalam Police Station and it was registered as Crime No.41 of 2008 on 13.02.2008 under Section 174 Cr.P.C. In the postmortem report, it is mentioned that there is a burn injury on the left foot close to the left ankle and the death is due to electrocution. According to the petitioner, the said accident has happened only due to the non maintenance of the electric wire periodically and due to the negligent attitude on the side of the respondents electricity board.



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4.The petitioner has sent a representation on 18.09.2020 and again on 30.03.2013 through registered post seeking compensation. However, there was no response from them. Hence, the present writ petition.

5.The second respondent has filed a counter contending that the said accident has happened only due to the snapping of conductor that had occurred due to the falling of a coconut leaf during heavy rain and wind. He had further contended that there is no allegation either the live wire is hanging or lying on the road in order to cause electrocution to an innocent person. The Board has further contended that they have properly maintained the electric line as per the safety norms provided in the Electricity Rules. The snapping of conductor was due to natural wear and tear. According to the respondents, the petitioner has to approach the Civil Court to claim compensation.

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

7. There is no dispute that the petitioner's minor daughter aged about 12 years had died due to electrocution. The respondents have only contended



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that the snapping of conductor had taken place due to heavy rain and wind and it is due to natural wear and tear. During the heavy rain, the respondent Board is expected to disconnect the electricity supply. However, in the present case, it has not been done. Moreover, the live wire had got snapped from the post and it had fallen down. The postmortem report reveals that the burn injuries are located on the left foot of the girl indicating that she had mistakenly stepped upon a live wire. Hence, it is clear that the accident had happened only due to negligence on the part of the respondent Electricity Board. Therefore, the respondents are liable to pay compensation.

8.The petitioner's daughter is aged about 12 years old on 13.02.2008. The Hon'ble Supreme Court in a judgment reported ***in (2022) 1 SCC 317 (Kurvan Ansari Alias Kurvan Ali and another vs. Shyam Kishore Murmu and another)*** has considered the issue of compensation in a motor accident case where the deceased is a non earning member. In the said case, the deceased was 7 year old School going boy. The Hon'ble Supreme Court in Paragraph Nos.14 and 16 has held as follows:

“14.In this case, it is to be noted that the accident was on 06.09.2004. In spite of repeated directions, schedule II is not yet amended. Therefore, fixing notional income at Rs.15,000/- per annum for non-earning members is not just and reasonable.



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16. In view of the above, we deem it appropriate to take notional income of the deceased at Rs.25,000/- (Rupees twenty -five thousand only) per annum. Accordingly, when the notional income is multiplied with applicable multiplier of 15, as prescribed in Schedule II for the claims under Section 163-A of the Motor Vehicles Act, 1988, it comes to Rs.3,75,000(Rs.25,000 X multiplier 15) towards loss of dependency. The appellants are also entitled to a sum of Rs.40,000/- each towards filial consortium and Rs.15,000/- towards funeral expenses. Thus, the appellants are entitled to the following amounts towards compensation:

(a).Loss of dependency	Rs.3,75,000/-
(b).Filial consortium (Rs.40,000x2)	Rs. 80,000/-
(c).Funeral expenses	Rs. 15,000/-
Total	Rs.4,70,000/- ”

9. In the judgment of the Hon'ble Supreme Court, the accident had taken place in the year 2004. In the present case, the accident has taken place in the year 2008. The notional income for a non earning member who died in the year 2004, has been taken by the Hon'ble Supreme Court as Rs.25,000/-. In the present case, the notional income could be taken as Rs.27,000/-. The correct multiplier is 15.



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10.The notional income is Rs.27,000/-. After 1/3rd deduction (27,000X1/3) ,it comes to Rs.18,000/-.

(i). Loss of dependency (18,000X15)	= Rs.2,70,000/-
(ii). Filial consortium (Rs.40,000X2)	= Rs. 80,000/-
(iii). Funeral Expenses	= Rs. 15,000/-

Total	= Rs. 3,65,000

11.Accordingly, the writ petitioner is entitled to a sum of Rs.3,65,000/- towards total compensation with interest at 6% per annum from 13.02.2008 till the date of realisation. The respondents are directed to pay the said amount with a period of 12 weeks from the date of receipt of a copy of this order.

12.The writ petition stands allowed to the above extent. No costs.

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Internet : Yes/No
Index : Yes/No
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To

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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