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W.P.(MD).Nos.14358 & 14359 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 07.11.2022

ORDER PRONOUNCED ON : 22.11.2022

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

W.P.(MD).Nos.14358 & 14359 of 2015

1.A.Ramesh Kumar ...Petitioner in W.P.No.14358 of 2015

2.S.Muthu Manikandan ...Petitioner in W.P.No.14359 of 2015

Vs

1.The Collector
Theni District
Theni

2.The Chief Engineer
Distribution
TANGEDCO
Madurai Division
Madurai

3.The Superintending Engineer
TANGEDCO
Theni Division
Theni

4.The Executive Engineer
Distribution, TANGEDCO
Chinnamanur
Theni District

....Respondents 1 to 4 in W.P.No.14358 of 2015



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5.The Assistant Executive engineer
Distribution, TANGEDCO
Kamatchipuram
Chinnamanur
Theni District

....5th Respondent in W.P.No.14358 of 2015

6.The Junior Executive Engineer
Distribution, TANGEDCO
Kamatchipuram
Chinnamanur
Theni District

...5th Respondent in W.P.No.14359 of 2015

Common Prayer: These Writ Petitions have been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order vide Ku.No.122499/897/C1/2015 dated 26.03.2015, signed on 27.03.2015 on the file of the second respondent and quash the same as illegal and consequently, direct the respondents 2 to 5 grant compensation to the petitioner to the tune of Rs.10,00,000/-.

(In both petitions)

For Petitioners : Mr.P.Muthuvijayapandian

For R1 : Mr.M.Lingadurai
Special Government Pleader

For R2 to R5 : Mr.S.Deenadhayalan
Standing Counsel

COMMON ORDER

Both the writ petitions have been filed challenging an order passed by the Electricity Board refusing to award compensation due to electrocution.



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2. The petitioner has contended that his sister Srimathy Rajeswari is married to one Muthu Manikandan and they have a male child out of their wedlock. For the second pregnancy, his sister had come to his house for delivery. On 27.03.2013, when the said Rajeswari has gone to terrace for drying the washed clothes, she got electrocuted by high voltage transmission line over her head and she shouted for help. Immediately, when the petitioner rushed to terrace and trying to save her, he was also electrocuted with severe wounds. On the spot itself, his sister Rajeswari had passed away.

3. The learned counsel for the petitioner had submitted that the petitioner had sustained severe injuries in his head and he had underwent treatment for a month and he had spent several lakhs to improve his health. The learned counsel had further contended that the high tension wire was running very close to the building and on several occasion, the villagers have made a complaint to the authorities for shifting the said high tension line. The villagers have agitated for shifting the electrical line. A sum of Rs.7,11,440/- was paid out of MLA fund for shifting the electrical line. The said amount was paid to the fifth respondent on 27.12.2012. A work order was also issued by the electricity board on 29.12.2012. Due to temple festival, the Village President and the general public have requested the electricity board to immediately carry out the said work. However, the said work was not done



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either in the month of January or in the month of February. This accident had taken place on 27.03.2013. If the respondent authorities had shifted the electrical line, this accident could have been avoided. The learned counsel had further contended that the petitioner had sustained grievous head injuries and hence, he was admitted in Meenakshi Mission Hospital, Madurai. He had produced the medical bills to the extent of Rs.1,03,199/-. Hence, he prayed for awarding of compensation.

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4.The said writ petition has been filed by the husband of the deceased Rajeswari. The petitioner has contended that his wife had gone to her parental home due to pregnancy and she had died due to electrocution. According to the petitioner, in view of not shifting of the electrical line in time, this accident had happened. His wife had left a male child to be taken care of by him. Hence, he prayed for a compensation for a sum of Rs.10/- lakhs.

5.Per contra, the learned counsel appearing for the Electricity Board by filing a counter affidavit and contended that the deceased had gone to the terrace for drying washed clothes and touched high tension line and she got electrocuted. According to the learned Standing Counsel for the respondents, the said high tension electrical line is in existence for the past 60 years. The construction of the house of the petitioner had come up under the high tension line. No building plan approval was obtained for the said construction



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which is very close to the high tension electrical line. The learned counsel had further contended that all the arrangements were made for shifting of the electrical line. However, the Panchayat President had requested that due to temple function, the said shifting of electrical line may be postponed to avoid a power shut-down. The said festival was conducted between 08.02.2013 to 12.02.2013. Hence, shifting of line had to be postponed.

6.The learned Standing Counsel had further contended that the accident had occurred due to negligent act of the petitioner and without adequate safety had extended the building, thereby the construction had come beneath the high tension line. There is no negligence or lack of maintenance on the part of the respondent authorities. He had further contended that the negligent act has to be proved with evidence and on the basis of material facts pleaded. Hence, a civil suit alone is maintainable and not a writ petition under Article 226 of Constitution of India. Hence, he prayed for dismissal of the writ petitions.

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

8.It could be seen from the writ affidavit and the counter affidavit, that the villagers have requested the electricity Board to shift the electrical line on the ground that it is very close to the building in existence. As per paragraph No.5 of the counter, transformer was located in front of the Kalaimman



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temple. The President of the Panchayat sought for shifting of transformer to another place and submitted an application. The application was registered under Deposit Contribution Work Scheme dated 26.07.2011 and it was sanctioned on 27.08.2011. The said sanction was informed to the Panchayat President on 02.09.2011, but estimated cost was not paid by the villagers. Therefore, in the year 2012, a re-estimation has been prepared and it was presented to the President on 12.10.2012. The amount has been disbursed from the MLA Fund on 27.12.2012 and a work order has been issued on 29.12.2012. The sequence of the above events will clearly indicate that the villagers have been agitating for shifting the electrical line at least from July 2011 onwards.

9. According to the learned Standing Counsel appearing for the respondents, though they were ready to commence the work, the Panchayat President had requested to postpone the same due to temple function. As per Paragraph No.6 of the counter affidavit, the temple function was conducted between 08.02.2013 to 12.02.2013. The accident had taken place on 27.03.2013, nearly six weeks after the temple function was over. There is no material on record to establish that in between the six weeks period any attempt was made to shift the transformer and electrical line that was passing close to the building. Hence, it is clear that the villagers have requested for shifting of the electrical line and the funds have been allotted from MLA fund



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towards expenses of the said shifting. The respondent authorities have also expected the danger arising out of the close running of the electrical line over and above the building and they have accepted the said amount and have issued a work order also. However, the work has not been completed even after the temple function had got culminated on 12.02.2013. Therefore, the petitioners have clearly established that there is negligence on the part of the respondent authorities. Unless the facts relating to the cause of death or reason for electrocution are in serious dispute, the question of referring the writ petitioners for a Civil Suit seeking compensation does not arise.

10.The petitioner in W.P(MD).No.14359 of 2015 is the husband of the deceased. His wife namely Rajeswari was aged about 23 years on the date of accident. She had left behind her husband and a son aged 2 years at that point of time. The notional income of the house wife could be calculated at Rs.6,000/- in the year 2013. After deducting 1/4th towards personal expenses, the monthly income would be Rs.4,500/- per month.

(i) . Total loss of income (Rs.4,500 X 12X 17)	=	Rs. 9,18,000.00
(ii). Loss of Consortium	=	Rs. 50,000.00
(iii). Funeral Expenses	=	Rs. 15,000.00

Total	=	Rs. 9,83,000.00

11.The petitioner shall be entitled to Rs.4,00,000/- and his minor son shall be entitled to Rs.5,83,000/-. The said amount will carry an interest at the



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rate of 6% p.a from 28.03.2013 till the amount is realised. The amount shall be disbursed by the respondents 2 to 5 within a period of 12 weeks from the date of receipt of a copy of this order.

12.In W.P(MD).No.14358 of 2015, the petitioner has produced the medical bills to a sum of Rs. 1,03,278/- and he is entitled as follows:

(i). Medical Expenses	= Rs.1,03,278.00
(ii). Pain and Suffering	= Rs. 25,000.00
Total	----- = Rs. 1,28,278.00 -----

13.The petitioner shall be entitled to Rs.1,28,278/-. The said amount will carry an interest at the rate of 6% p.a from 28.03.2013 till the amount is realised. The amount shall be disbursed by the respondents 2 to 5 within a period of 12 weeks from the date of receipt of a copy of this order.

14.Accordingly, the writ petitions stand allowed to the above said extent. No costs.

22.11.2022

Internet : Yes/No
Index : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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