



W.P.(MD).No.9448 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 01.12.2022

ORDER PRONOUNDED ON : 06.12.2022

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

W.P.(MD).No.9448 of 2015

Selvam

...Petitioner

Vs

1.The Chairman
Tamil Nadu General Distribution
Corporation (TANGEDCO)
800, Anna Salai
Chennai 22

2.The Assistant Engineer
Tamil Nadu General Distribution
Corporation (TANGEDCO)
S.V.Mangalam
Sivagangai District

3.The Junior Engineer
Tamil Nadu General Distribution
Corporation (TANGEDCO)
Singampunari
Sivagangai District

4.The President
A.Kalappur Village Panchayat
Singampunari Taluk
Sivagangai District

....Respondents

(R4 impleaded vide Court order dated 27.09.2022)



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay appropriate compensation to the petitioner in the light of the judgement reported in 2011 WLR 176 for the death of his son namely Muthukrishnan who died on 10.08.2014 due to Electrocution.

For Petitioner : Mr.S.Bharathy Kannan

For R1 to R3 : Mr.S.Deenadhayalan
Standing Counsel

For R4 : Mr.A.Baskaran
Additional Government Pleader

ORDER

The present writ petition has been filed for a mandamus directing the respondents to pay compensation to the petitioner for the death of his son who died due to electrocution.

2.According to the learned counsel for the petitioner, the petitioner's son Muthukrishnan was studying second year Engineering in a private College at Pudukottai. On 10.08.2014, being a Sunday, his son and his friends had gathered in a playground for playing cricket. While they were playing cricket, the ball has gone to a nearby iron fence. When his son was about to take the ball, he touched the iron fence and he got electrocuted and was thrown away.

3.According to the learned counsel, when the petitioner's son was taken to Government Hospital, Singampunaneri, the Doctors had declared that he



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had died. An F.I.R was registered in Crime No.111 of 2014 on the file of the S.V.Mangalam Police Station on 10.08.2014 under Section 174 Cr.P.C. A postmortem was conducted by the Doctor of Government Hospital, Singampunari and the report indicated that the petitioner's son had died due to electrocution.

4.The petitioner had stated that his son was aged about 20 years and his family has lost the care and affection of their lovely son. The respondent authorities were not properly maintaining the electric pole which was located nearby the iron fence. The electricity had got discharged from the electric post and passed through the iron fence which has resulted in the death of the petitioner's son. According to the petitioner, the authorities of the electricity board have been negligent in properly maintaining the electrical post. Hence, he sought for appropriate compensation.

5.The Electricity Board had filed a counter contending that they have provided electricity service connection to the Panchayat for the motor located in an overhead tank. The Panchayat had fenced tank with the service connection line using iron rods. While the petitioner's son was playing cricket, the cricket ball had gone into fenced area. When he attempted to take the ball, he got electrocuted and died. There is no negligence or lack of maintenance on the part of the electricity board. The service connection is maintained by the Panchayat and the consumer is liable to maintain service



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connection line from the consumer point. This accident had occurred only due to negligence on the part of the consumer. He had further contended that since the facts are disputed, the petitioner may be directed to approach the competent Civil Court.

6.The learned counsel had further contended that even in the F.I.R, it has been admitted that there was a heavy rain on the previous day and hence, there was discharge of electricity which has resulted in passing of the electricity in the iron fence. Therefore, according to the electricity board, it is an Act of God and they are not liable for the same.

7.Since the electricity board had made allegation as against the Panchayat, the Panchayat was impleaded as fourth respondent in the writ petition.

8.The Panchayat in their counter has specifically contended that the accident had happened only due to the Act of God and they are not responsible. A criminal case has been registered in Crime No.111/2014 and the same is pending. Before investigation is completed, the question of payment of compensation does not arise. Hence, he prayed for dismissal of the writ petition.

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



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10.The petitioner has contended that his son was attempting to take the cricket ball which has fallen across the iron fence and due to discharge of electricity in the iron fence from nearby electric post, his son got electrocuted and thereafter, passed away.

11.The electricity board has filed a counter contending that for the overhead tank maintained by the Panchayat, the electricity service connection has been provided. The Panchayat had put the iron fence encompassing the overhead tank. Due to discharge of electricity in the equipment maintained by the consumer (Panchayat), the electricity had got discharged into iron fence and the petitioner's son had passed away and they are not liable for the negligence and lack of maintenance on the part of the Panchayat. The Panchayat in their counter had contended that due to the Act of God, this accident has taken place.

12.A perusal of the writ affidavit, counter filed by the electricity board and Panchayat would clearly reveal that there was no dispute that the petitioner's son had died due to electrocution which had occurred while the petitioner's son had touched the iron fence put up around the overhead tank maintained by the Panchayat. There was no possibility of discharge of electricity in the iron fence unless there is lack of maintenance and negligence on the part of the consumer.



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13.The allegation of the electricity board in their counter has not been disputed by the Panchayat in their counter. A combined reading of all the pleadings will clearly disclose that there is negligence on the part of the Panchayat in maintaining the electrical post erected within their fenced area which has resulted in discharge of electricity into the iron fence put up by the Panchayat. Therefore, it is clear that only due to negligence on the part of the Panchayat, this accident had taken place. Since there is no disputed question of fact, the question of directing the petitioner to approach the competent Civil Court does not arise.

14.The petitioner's son was aged about 20 years on the date of accident and he was studying in an Engineering College. Being a non-earning member and considering the future prospects, his notional monthly income could be taken at Rs.12,000/- per month. After deducting 50% towards personal expenses, the monthly income could be arrived at Rs.6,000/- per month. Considering the age of the deceased, the correct multiplier is 16.

15.Thus the petitioner is entitled to the following amount towards compensation:

(i). Loss of income (Rs.6000x12x16)	Rs. 11,52,000.00
(ii). Funeral Expenses	Rs. 15,000.00

Total	Rs.11,67,000.00



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16. Accordingly, the writ petitioner is entitled to a sum of Rs.11,67,000/- towards total compensation with interest at 6% per annum from 01.09.2014 till the date of realisation. The fourth respondent is directed to pay the said amount with a period of 12 weeks from the date of receipt of a copy of this order.

17. 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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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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