



W.P.(MD)No.717 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.717 of 2017

Perumalsamy

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Electricity Department,
Fort St.George, Chennai.
- 2.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai.
- 3.The Chief Engineer,
Tamil Nadu Electricity Board,
Tirunelveli.
- 4.The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli.
- 5.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Distribution,
Uthumalai, V.K.Pudur Taluk,
Tirunelveli District.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents herein to pay a compensation a sum of Rs.10,80,000/- to the petitioner.

For Petitioner : Mr.T.Selvakumaran
For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2. The occurrence took place on 11.02.2012. One Ganapathy is a resident of Marunthalpuram and he was engaged in cultivation of a particular kind of cucumber. The said cucumber was grown on an iron net. On the occurrence date, Ganapathy's wife was also accompanied by one Valliammal. When Madathi plucked the cucumber, she suffered electrocution and she fell down. To save her, Valliammal also intervened. She also suffered electrocution. Hearing the cries of the two, one Perumalsamy rushed. All the three suffered electrocution and they were rushed to the Government Hospital. Madathi died, while Perumalsamy



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and Valliammal suffered injuries. In this regard, Crime No.30 of 2012 was registered on the file of the Uthumalai Police Station under Section 154 of Cr.P.C. Claiming compensation, son of Madathi filed W.P. (MD)No.716 of 2017, while Valliammal and Perumalsamy filed W.P. (MD)Nos.718 & 717 of 2017.

3. The learned counsel appearing for the petitioner submitted that compensation as sought for must be granted. According to him, the respondents are under an absolute liability. But for the negligence on the part of the respondents, the occurrence in question would not have taken place.

4. Per contra, the learned standing counsel appearing for the respondents submitted that iron net was tied to an electric pole by use of a GI wire and that is how, electricity had passed on to the iron net. He submitted that on account of the negligence on the part of the victims, the occurrence had taken place. He called for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.



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6. The photographs have been produced before me. It is seen that at one corner of the agricultural field, an electric pole had been installed. In the FIR itself, Madthi's husband had admitted that the cucumber was grown by spreading it on iron net. If that be so, there is absolutely no chance for electricity pole come in contact with the iron net on which cucumber were grown. The jurisdictional assistant engineer had informed in his complaint dated 11.12.2012 that the iron net was tied to the electric pole via GI cable.

7. According to the respondents, only because of this contact between the electric pole and the iron net, the occurrence had taken place. Disputed questions of fact have arisen before me. To resolve the same, evidence will have to be adduced. It is not possible for me to adjudicate the issue in writ proceedings. Therefore, I dismiss the writ petition. However, liberty is given to the petitioner to move the jurisdictional civil court for compensation. If the suit is filed within a period of two months from the date of receipt of a copy of this order, the same will not be rejected on the ground of limitation. All the contentions of the petitioner are left open.



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8. The writ petition stands dismissed. No costs.

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

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