



W.P.(MD).No.570 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 20.07.2022

ORDER PRONOUNDED ON : 25 .07.2022

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

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Murugesan

...Petitioner

Vs

1.The Superintending Engineer
TANGEDCO
Thiyagaraja Nagar
Tirunelveli 627 011

2.The Junior Electricity Engineer
TANGEDCO
Kattaiaripatti
Kadayam Post
Tirunelveli District

3.The Block Development Officer
Kadayam Panchayat Union
Tenkasi Road
Ambasamutram Taluk
Tirunelveli 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 compensation of Rs.10,00,000/- (Ten lakhs) to the petitioner for the death of petitioner's son namely Vinayagaselvam caused due to the negligence of the respondents.



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For Petitioner : Mr.T.Selvakumaran
For R1 & R2 :Mr.S.Deenadhayalan
Standing Counsel
For R3 : Mr.D.Sasikumar
Additional Government Pleader

ORDER

This writ petition has been filed seeking compensation from the Electricity Board for the death of petitioner's son due to electrocution.

2.According to the petitioner, a Panchayat bore well situated at the back side of his house was in disuse for the past 1 ½ years. However, the power supply to the bore well was not disconnected. The general public have complained to the second respondent herein that there was a leakage in the power supply in the Panchayat pumping room. However, they did not take enough care to rectify the same. On 21.06.2015 at about 05.30 p.m, when the petitioner's son went to the back side of the house, he got electrocuted while he came in direct contact with the earth wire which was kept open on the back side of the petitioner's house. Immediately after the incident, he was taken to the Government Hospital, Kadayam and later shifted to the Government Hospital, Tenkasi. However, he could not be saved and he passed away.



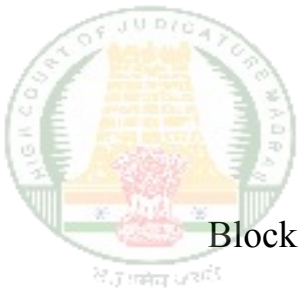
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3. According to the learned counsel for the petitioner, though the said bore well was not used for the past 1 ½ years, the respondents 1 and 2 have not disconnected the power supply. The earth wire has also not been properly maintained. Because of the said negligence on the part of the respondents 1 and 2, the petitioner's son got electrocuted and passed away. Hence, he has sought for compensation of a sum of Rs.10,00,000/- from the respondent Electricity Board.

4. The first respondent had filed a counter affidavit contending that proper maintenance has been made regularly. In Paragraph No.4 of the counter, he has stated that there is no negligence at any point of time. He had further contended that the earthed terminal has to properly maintained only by the third respondent which has not been properly done. Hence, the respondents 1 and 2 are not liable for the payment of the said compensation.

5. The third respondent had filed a counter affidavit contending that he is not a necessary party since he is only a supervisory authority with regard to functioning of the village Panchayat. According to the third respondent, the dilapidated pump room with EB connection stands in the name of the village Panchayat President and hence, the third respondent namely the



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Block Development Officer is not responsible. Despite the information provided by the Village Panchayat President, the Electricity Board has not disconnected the service connection. Thus the unfortunate incident has happened.

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

7.The petitioner's son aged about 15 years who was studying 10th Standard had died on 21.06.2015 due to electrocution. This fact is not in dispute by any one of the authorities.

8.According to the petitioner, the service connection which resulted in electrocution was connected to a Panchayat bore well. The said bore well was in disuse for more than 1 ½ years. Though a complaint was lodged by the villagers about leakage of electricity, the same was not attended properly by the Electricity Board. Hence, the incident has happened. The Electricity Board in Paragraph No.4 of the counter has admitted that on 21.06.2015 a complaint was received from the public and it was properly attended to in the morning, but in the evening, this incident has happened. After coming to know about the incident, the supply wires have been removed from the pole



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of the OHT service connection by the field staff. According the Electricity Board, the incident had occurred at the consumer premises due to the neutral fault on the adjacent service connection of the pole.

9.The counter affidavit filed on the side of the respondent Electricity Board will clearly reveal that in the morning hours a complaint has been sent by the villagers pointing out the electricity leakage. Though the officials of the respondent board are said to have rectified the same, the incident has happened at 5.30 p.m on the same day. This clearly reveals that the officials of the respondent Board have not properly attended to the defect and the electricity leakage complained of in the morning hour has continued till the evening at 5.30 p.m Hence, the incident has happened only due to negligence on the part of the respondents 1 and 2 and they are liable to pay the compensation to the writ petitioner.

10.The writ petitioner's son was about age 15 year studying 10th Standard at the time of incident. He was a non earning member of the family. 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)*** while dealing with the compensation for a non earning member 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.

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:

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

11.The notional income was taken as Rs.25,000/- per annum for an accident that has taken place in the year 2004. In the present case, the incident has taken place in the year 2014. Hence, it would be appropriate to fix the notional income of a non earning member at Rs.30,000/-. The deceased had left three siblings and the applicable multiplier for the said age is 15. Thus the petitioner is entitled to the following amount towards compensation:



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12.The notional income is Rs.30,000/-. After 1/3rd deduction
(30,000X1/3) ,it comes to Rs.20,000/-.

(i). Loss of dependency (20,000X15)	= Rs.3,00,000/-
(ii). Filial consortium (Rs.40,000X2)	= Rs. 80,000/-
(iii). Funeral Expenses	= Rs. 15,000/-

Total	= Rs. 3,95,000

13.Accordingly, the writ petitioner is entitled to a sum of Rs.3,95,000/- towards total compensation with interest at 6% per annum from 22.06.2015 till the date of realisation. The respondents 1 and 2 are directed to pay the said amount with a period of 12 weeks from the date of receipt of a copy of this order.

14.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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