



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1724 of 2017

S. Kaleeshwari

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
K.R.R. Building, 800, Anna Salai,
Chennai.
2. The Chief Engineer,
Tamilnadu Generation of Electricity and Distribution
Corporation,
Virudhunagar Electricity Distribution Office,
Virudhunagar,
Virudhunagar District.
3. The Assistant Executive Engineer,
Tamil Nadu Generation of Electricity and Distribution
Corporation,
Sivakasi,
Virudhunagar District.

4. Sivaguru

... Respondents

(R4 impleaded Vide Court order dated:27.07.2020
in WMP(MD)No.14276 of 2017)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay compensation a sum of Rs.15,00,000/- to the death of the petitioner husband due to electrocution.

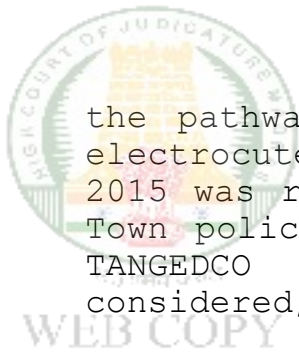
For Petitioner : Mr. C.M. Arumugam
For R-1to R-3 : Mr. S. Deenadhayalan
Standing Counsel
For R-4 : No Appearance

* * *

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondents TANGEDCO.

2. Though the fourth respondent has been served and his name is printed in the cause list, there is no appearance on his behalf. The writ petitioner's husband was a young mason. On 13.05.2015, he was walking on the road in Sattur to attend the construction work in Natarajan Fire Works. He found that a cable TV wire had fallen on



the pathway. He bent down to remove it from the pathway. He was electrocuted and died on the spot. In this regard, Crime No.380 of 2015 was registered on the file of the Inspector of Police, Sattur Town police station. The petitioner represented to the respondents TANGEDCO seeking payment of compensation. Since it was not considered, the present writ petition came to be filed.

3. The respondents have filed a detailed counter affidavit disputing their liability. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. It is submitted that this Court had to apply the principle of absolute liability and award compensation as prayed for.

4. Per contra, the learned Standing counsel submitted that only if the TANGEDCO can be fastened with liability, compensation can be awarded and not otherwise.

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

6. There is no dispute that the petitioner died due to electrocution. In paragraph No.5 of the counter affidavit, it has been stated as follows:-

"I submit that the allegation stated in para No.6 of the petitioner affidavit is denied as false. In the present case the cable TV operator of that area despite several warning and notice by the TANGEDCO had acted illegally to run the cable TV wire on TANGEDCO support structures even after disconnecting of the same the cable TV operator had illegally restored the cable dismantling of the cable electricity department staff. The fact of complaint in this regard given by the people of that area is denied and no such complaints were received from the general public at TANGEDCO Sattur office.

6) I submit that the allegation stated in paragraph No.7 of the petitioner affidavit as false. The electric pole supporting structures and lines were maintained with proper care and attention. The maintenance and verification were carried out as per the established rules and regulations if the board and there was no lapse in this regard hence the TANGEDCO is not liable to pay the compensation. The petitioner contention of lines not maintained is misleading and false in natural. In an attempt to get compensation the petitioner is involved in insulting campaign against the TANGEDCO officials as if the lines were not maintained properly. Hence the petitioners claim is false and malafide. In fact the petitioner has to seek remedy from the cable TV operator



concerned for his transparent and bold violation of rules and for not maintaining cable TV wires in good condition."

7. The petitioner's husband had behaved like a good samaritan. Such persons while walking on the road, if they come across any offending object, would invariably remove the same from the pathway. This is the natural conduct of such persons. The petitioner's husband exhibited such conduct. By no stretch of imagination can that be considered as an act of negligence or even contributory negligence.

8. As rightly pointed out by the learned counsel appearing for the writ petitioner, TANGEDCO ought to have ensured that the cable lines maintained by the said cable TV operator were not running on the TANGEDCO support structures. From the averments set out in the counter affidavit, I come to the conclusion that the TANGEDCO officials were very much aware of the act of the cable TV operators. The stand of the TANGEDCO is that despite several warnings and notice issued by the TANGEDCO, he continued to run the cable TV wires on the TANGEDCO electric poles and other support structures. From this averment, one can definitely fasten liability on TANGEDCO. It is open to the TANGEDCO to recover the amount awarded by this Court from the cable TV operator.

9. TANGEDCO had issued proceedings dated 16.10.2019 providing for payment of a sum of Rs.5,00,000/- as compensation even in cases where there is no negligence on the part of the TANGEDCO. Though the occurrence in question took place before issuance of the said proceedings, since I have already concluded that the TANGEDCO officials were negligent, I have no hesitation to order payment of compensation. Respondents 1 to 3 are directed to pay a sum of Rs.5,00,000/- to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. It is open to the TANGEDCO to recover the said amount from the fourth respondent herein.

10. This writ petition stands allowed. It is open to the petitioner herein to move the jurisdictional civil Court, if she wants enhancement of compensation. If such a 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. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/07/2022

Sub Assistant Registrar (CS)



To:

1. The Chairman,
Tamil Nadu Electricity Board,
K.R.R. Building, 800, Anna Salai, Chennai.
2. The Chief Engineer,
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Virudhunagar Electricity Distribution Office,
Virudhunagar, Virudhunagar District.
3. The Assistant Executive Engineer,
Tamil Nadu Generation of Electricity and Distribution
Corporation,
Sivakasi, Virudhunagar District.

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-26232 [F]
dated 16/06/2022)

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-26278 [F]
dated 16/06/2022)

W.P.(MD)No.1724 of 2017
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NA (CO)

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