



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.11487 of 2021

- 1.Kannan
- 2.Mahendran
- 3.Manivannan
- 4.Dhamodaran

.. Petitioners

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Chief Secretary,
Fort St. George, Chennai.
- 2.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd., (Formerly TNEB),
No.144, Anna Salai, Chennai – 600 002.
- 3.The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd., (Formerly TNEB),
Bypass Road, Salem.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.33,08,500/- by way of compensation to the petitioners for the death of 1st petitioner's wife Shamugavalli on account of electrocution.

For Petitioners .. Mr.K.Vasanthanayagan

For Respondents .. Mr.I.Syed Sibghatulla
Standing Counsel

ORDER

This writ petition has been filed in the nature of a Mandamus seeking a direction to the 1st respondent to pay a sum of Rs.33,08,500/- by way of compensation to the petitioner for the death of Shanmugavalli wife of the 1st petitioner herein and mother of the 2nd, 3rd and 4th petitioners. She died according to the petitioner owing to electrocution suffered by coming into contact with the live wire of the respondents herein.

2.The Writ Court is not the proper forum to decide facts, particularly when facts are disputed by either side. Recourse will have to be taken to the civil forum to adjudicate the facts on the basis of issues raised and answered.



3.The brief facts are that, Shanmugavalli wife of the 1st petitioner was found lying dead in the field of the petitioners' land and it is the statement of the petitioners that she had come into contact with a snapped live electric wire. It is also contended that she died due to electrocution.

4.In this regard, a complaint had been given before the Vaazhapadi Police Station and the same has been registered as Crime No.434 of 2020 under Section 174 Cr.P.C on the very same day / 22.06.2020. Post-mortem was conducted and the certificate revealed that she died due to electrocution. It is contended that, the incident occurred due to the negligence and carelessness of the respondents.

5.These facts are vehemently disputed and denied by the respondents in their counter affidavit. It is stated that the 1st petitioner and his wife Shanmugavalli often cut areca tree branches and when they cut the branches, the branches cut, fall on the electric lines and cause damages. It had been stated that on an earlier occasion the fuses were blown out and there was interruption of power supply in the whole, area which was fed through 'Kurichi SS III' transformer.



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6. It was stated that there were oral complaints from the land owners and it was ascertained that the non-availability of power supply was due to the fact that the 1st petitioner and his wife had the habit of cutting the branches of the areca trees, and they fell on the live wire, thereby snapping it and the fuse going off. It is stated that on the fatal day, the wife of the 1st petitioner was engaged in the cutting of the branches of the areca trees and at that time, the wire had snapped and she had come into contact, out of her own negligence and she died due to electrocution. The liability to pay compensation is thus denied by the respondents herein.

7. The narration of the above facts would reveal that there are disputed facts and it would only be appropriate to approach the Civil Court to settle the issues. Every fact asserted by the petitioners had been denied and disputed by the respondents. Evidence is required and evidence is also required with respect to the total amount of compensation which is sought and as to how that particular amount has been arrived at by the petitioners herein.



8.The respondents have their own Board proceedings in Proceeding No.6 dated 16.10.2019, where they had decided that in cases of electrocution causing death a sum of Rs.5,00,000/- can be paid as compensation.

9.I would leave the issues open to be decided in a Civil Court. I would direct the parties to approach the Civil Court seeking adequate compensation, if at all negligence is made out. Let the respondents however honour their commitment decided in the Board proceedings and pay a sum of Rs.5,00,000/- to the petitioners and that amount can always be set off, if a suit for compensation is filed and amount granted.

10.It is made clear that, the said sum is paid only under the orders of the Court and not on any decision taken by the respondents. The respondents are at liberty to claim this amount of Rs.5,00,000/- by way of set off if ever the petitioner institute a civil suit.

11.This amount is directed to be paid only to cater the immediate requirement of the family of Shanmugavalli and certainly does not imply



that the respondents are liable. Let that payment be made without prejudice to raise all issues before the Civil Court both by the petitioners and the respondents.

12.The Civil Court may adjudicate the matter on the basis of the pleadings and evidence recorded and not on any of the observations made in this order.

13.The said sum of Rs.5,00,000/- may be paid within a period of eight weeks from the date of receipt of a copy of this order.

14.With the above observations, this writ petition stands disposed of.
No costs.

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Index:Yes/No
Internet:Yes/No
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To

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C.V.KARTHIKEYAN,J.

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