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A.S.No.493 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

A.S.No.493 of 2021

and

C.M.P.No.20283 of 2021

1.The Superintending Engineer,
Electricity Department,
Keeperumalai, Cuddalore,
Government of Tamil Nadu.

2.The Assistant Engineer,
Electricity Department,
having office at No.1, Utchimedu Pathai,
Periyakanganankuppam,
Cuddalore.

..Appellants

Vs.

1.Raja @ Elayaraja

2.The District Collector,
Cuddalore,
Government of Tamil Nadu.

..Respondents

Appeal filed under Section 96 of C.P.C., read with Order 41 Rule 1 of C.P.C., praying to set aside the Judgment and Decree dated 11.02.2020 passed in O.S.No.111 of 2016 (Pauper O.P.No.79/2013) on the file of the Principal District Judge at Cuddalore.



WEB COPY



A.S.No.493 of 2021

For Appellants : Mrs.J.Hemalatha
For R1 : Mr.T.Ananthasekar
For R2 : Mr.T.Chandrasekaran
Special Government Pleader (AS)

JUDGMENT

The Appeal Suit has been filed to set aside the Judgment and Decree dated 11.02.2020 passed in O.S.No.111 of 2016 (Pauper O.P.No.79/2013) on the file of the Principal District Judge at Cuddalore.

2. The parties are referred as per the ranking in the trial Court.

3. The appellants are the defendants 1 and 2 in the suit and the 1st respondent is the plaintiff, instituted a suit for passing an award of Rs.20,00,000/- as compensation for the injuries sustained by the plaintiff in the electrocution along with the interest.

4. The plaintiff has stated that on 17.04.2010 at about 11.30 a.m., when the plaintiff was attempting to pluck a Pappaya fruit from the Pappaya tree with the aid of an iron pipe, in front of the shop of one Wilson,



A.S.No.493 of 2021

Kanganankuppam, he was electrocuted. As a result of which, he sustained electrical burns and was thrown out in the road. Immediately, he was taken to Government Hospital, Cuddalore and then to Government General Hospital, Pondicherry, where he was referred to Ramachandra Hospital, Chennai. He was treated as inpatient in Ramachandra Hospital, Chennai and his right hand and right leg were amputated. Even at the time of institution of the suit, he was undergoing treatment.

5. Above the said Pappaya Tree, there was a HT electric lines, which were passing in a low height from the ground level. Due to the negligence and carelessness of the defendants in correcting and carrying out the said mistake, the plaintiff was electrocuted. At the time of electrocution, the plaintiff was aged about 32 years and was working as a Loadman and was earning a sum of Rs.750/- per day. Due to amputation of his right hand and right leg, he is not able to move and work. Thus, his family is starving. In view of the continuous treatment, there was a delay in registering F.I.R and it was registered under Section 156(3) of Cr.P.C., before the Judicial Magistrate No.II, Cuddalore. Accordingly, the case was registered in Crime No.56/2011.



A.S.No.493 of 2021

WEB COPY

6. The defendants 1 and 2 filed a written statement, denying the plaint averments. The defendants denied their negligence or carelessness in maintaining the HT electrical lines and it is contended that the defendants 1 and 2 had not received any complaint from the place of occurrence that the wire was not properly maintained. The accident occurred due to the negligence of the plaintiff. Thus, the suit is to be rejected.

7. The trial Court framed the following issues:

- “1. Whether the defendants are liable to pay compensation amount of Rs.20,00,000/- for the plaintiff?*
- 2. Whether the defendants are negligent in carrying the electricity lines in the place of accident?*
- 3. To what other relief the plaintiff is entitled to?”*

8. On the side of the plaintiff, PW1 and PW2 were examined and Ex.A1 to Ex.A9 were marked. On the side of defendants, DW1 was examined and no documents were marked.

9. With reference to Issue Nos.1 to 3, the trial Court considered the documents and evidences and PW1 deposed that on the alleged occurrence day, he was attempting to pluck a Pappaya fruit from the Pappaya tree with



A.S.No.493 of 2021

the aid of an iron pipe in front of the shop of one Wilson, Kanganankuppam, he was electrocuted and sustained electrical burns and thrown out in the road. He was treated as inpatient in Ramachandra Hospital, Chennai and his right hand and right leg were amputated.

10. The allegation raised against the defendants 1 and 2 were that the HT electrical lines are passing in a low height from the ground level and due to the negligence and carelessness of the defendants in correcting and carrying out the said errors, the plaintiff was electrocuted. F.I.R was marked as Ex.A1. Photo copy of occurrence place is marked as Ex.A5. CD is marked as Ex.A6. One Elayaperumal (PW2) was examined as eye witness to the alleged occurrence. According to PW2, on 17.04.2010 at about 9.00 a.m., the alleged occurrence took place and he had witnessed the same.

11. On the side of the defendants 1 and 2, the Junior Engineer attached to Tamilnadu Generation and Distribution Corporation, Manjakuppam, Cuddalore was examined as D.W.1. He has stated in his affidavit that the alleged occurrence was only due to the negligence of the plaintiff and the electrical wires were properly maintained. The authorities had not received any complaint from the public regarding the occurrence.



A.S.No.493 of 2021

Discharge Summary issued by Sri Ramachandra Hospital, Chennai. On perusal of Ex.A2, the plaintiff sustained electrical burns on his right forearm and right foot and the right below knee and right below elbow were amputated. The Disability Certificate was marked as Ex.A7 issued by one Dr.D.K.Dubey, M.S.Ortho, Indira Gandhi Government General Hospital, Puducherry. Accordingly, the plaintiff sustained 100% disability for the amputation in the right forearm and right lower knee.

15. There is no record to prove the occupation of the plaintiff. The plaintiff happens to be the Loadman and due to the amputation of his right hand and right leg, he cannot perform the duty of the Loadman and therefore, the injury caused not only 100% disability, but deprived the plaintiff's professional capacity to earn and lead his livelihood. Accordingly, the trial Court adopted the Multiplier, since the age of the petitioner during the relevant point of time was 32 years. As per the Ex.A2, Discharge Summary, Multiplier-16 was adopted.

16. In the absence of proof for income, the trial Court approximately fixed the monthly income of the plaintiff as Rs.6,000/-. The said fixation cannot be found to be exorbitant, in fact it is lesser than the minimum wages



A.S.No.493 of 2021

to be paid even as per the Government Norms. Taking into consideration the age of the plaintiff, 50% disability towards partial permanent disability was taken into consideration and accordingly, the compensation was calculated as Rs.6,000/- x 12 x 16 x 50%=Rs.5,76,000/-.

17. A sum of Rs.50,000/- was granted towards Pain and Sufferings and Rs.10,000/- was granted for Transportation. Another sum of Rs.10,000/- for Extra Nourishment and Rs.10,000/- for Attendant Charges were also awarded. The Medical Bills for the expenses towards treatment totalling Rs.2,38,895/- was also directed to be paid. A sum of Rs.50,000/- for Loss of Amenities in life and Rs.1,000/- for damage of clothes were also granted.

18. To cover up the period of treatment, six months income of Rs.36,000/- was ordered. In total, the plaintiff is entitled to get a sum of Rs.9,81,895/- rounded to Rs.9,82,000/-. Accordingly, the trial Court awarded a sum of Rs.9,82,000/- (Rupees Nine Lakh Eighty Two Thousand only) towards compensation along with interest at the rate of 6% per annum from the date of plaint till realisation.



A.S.No.493 of 2021

WEB COPY

19. The point to be considered in the present appeal suit is that, whether the compensation granted can be construed as “just compensation”.

20. In this context, it is not in dispute that the plaintiff got electrocuted and underwent major treatment in Sri.Ramachandra Hospital at Chennai, which resulted amputation of his right hand and right leg. The plaintiff was a Loadman and therefore, lost his earning capacity and sustained 100% disability. He was aged about 32 years at the time of accident and all those mitigating factors were taken into consideration in a right perspective by the trial Court and the compensation was awarded. The monthly income of Rs.6,000/- fixed by the trial Court cannot be construed as excessive. Undoubtedly, it is reasonable and far below than that of the minimum wages fixed by the Government under the provisions of the Minimum Wages Act. The trial Court considered these factors and accordingly, compensation was granted under various other heads by adopting the formula, which is being adopted in respect of the compensation to be granted for accident victims.

21. Thus, this Court do not find any infirmity or perversity in respect of the methodologies adopted for determining the quantum of compensation



A.S.No.493 of 2021

awarded. Thus, this Court has no hesitation in arriving a conclusion that the compensation awarded in the present case is just and equitable. Thus, this Court is not inclined to interfere with the judgment and decree passed by the trial Court.

22. Accordingly, the judgment and decree dated 11.02.2020 passed in O.S.No.111 of 2016 on the file of the Principal District Judge, Cuddalore stands confirmed and the Appeal Suit in A.S.No.493 of 2021 is dismissed. The appellants are directed to settle the compensation amount in favour of the 1st respondent along with the interest within a period of one month from the date of receipt of a copy of this judgment and report the payment of compensation to the first respondent/plaintiff to the Registrar General, High Court of Madras. No costs. Connected miscellaneous petition is closed.

24.02.2023

Index : Yes
Speaking order: Yes
Neutral Citation: Yes
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A.S.No.493 of 2021

To
The Principal District Judge,
Cuddalore.

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A.S.No.493 of 2021

S.M.SUBRAMANIAM, J.

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A.S.No.493 of 2021

24.02.2023