



W.A.No.4283 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

W.A.No.4283 of 2019

1.The Chairman-Cum-Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., TANGEDCO
800, Anna Salai,
Chennai – 600 002.

2.The Superintending Enginner,
Chengalpattu Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd., TANGEDCO,
Chengalpattu- 603 001.

... Appellants

versus

V.R.Kabilan

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 06.09.2019 passed in W.P. No.26464 of 2016

For Appellants : Mr.L.Jaivenkatesh
Standing Counsel
for TNEB

For Respondent : Mr.S.Vediappan



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JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The respondent herein has filed a writ petition in W.P.No.26464 of 2016, seeking a direction to the appellant electricity board to grant a compensation of Rs. 10,00,000/- to respondent's son, Selva Krishanan. The said writ petition was disposed of by this Court on 06.09.2019, directing the appellant electricity board to pay a sum of Rs.17,88,200/- as total compensation along with interest at the rate of 8 % per annum to the respondent. Challenging the said order, the appellant board has filed the present intra court appeal before this Court.

2. Learned Standing Counsel for the appellant board contended before this Court that a 110 C.V transformer had been erected by the Board for giving electricity connection to the residents of the apartment building, City Apartment, Pudukottai. While so, the respondent's son namely Selva Krishanan has attended some fault in the air conditioner, based on the complaint made by one of the residents of the said apartment.



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3. According to the appellants, by about 7.30 pm, after finishing the work, the son of the respondent had carelessly moved the ladder unfold in the standing position without noticing the 110 K.V power line crossing that area and thus the ladder touched the 110 K.V. power line running live and due to electrocution, he died. An FIR has been registered for the death of the respondent's son. According to the appellant, there is no negligence on the part of the appellant board necessitating payment of any compensation amount.

4. Learned Standing Counsel for the appellant-Board submitted that the writ court, without taking note of the above fact, has passed an order granting payment of compensation of Rs.17,88,200/- to the respondent. According to the appellants, the writ Court under Article 226 cannot grant compensation to the respondent for the death of respondent's son due to electrocution, since there is no evidence or proof to show that there is negligence on the part of the appellant board. On the other hand, the specific case of the respondent is that due to the negligence of the appellant-Board, there was electrocution, due to which his son died on the spot. All these facts, according to the appellant board, have to be decided by a competent civil court to



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establish the negligence on the part of the appellant board. Therefore, the order of the writ court is liable to be set aside.

5. The learned Standing Counsel for the appellant further submitted that any victim, if died due to electrocution before 29.07.2019, is entitled for a compensation of only Rs.2,00,000/-, whereas in the present case, the son of the respondent had died on 28.04.2014. Therefore, as per the relevant Government Order, he is entitled for payment of compensation only at Rs.2,00,000/-. Learned Sanding counsel for the appellant further submitted that the relief of enhancement of compensation, if any, beyond Rs.2,00,000/- cannot be decided in a writ petition under Article 226 of the Constitution of India. Whether the respondent is entitled for enhancement of compensation is a disputed fact that is to be decided only by a competent civil court as per the decision laid down by the Hon'ble Supreme Court in the case of **Chairman Grid Corporation vs Smt.Sukamani Das and Another etc reported in 1999 Supp(2) SCR 458.**

6. In view of the facts and circumstances of the case, there is some force in the contention of the appellant board warranting interference with the impugned order passed by the writ court.



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7. Accordingly, we are inclined to modify the order impugned in this appeal in the following terms:

a) The appellant board is directed to pay compensation in a sum of Rs.2,00,000/- to the respondent along with interest at the rate of 8 % per annum from the date of the impugned order, within a period of 12 weeks from the date of receipt of a copy of this order.

b) Liberty is granted to the respondent to approach the civil court seeking for enhancement of compensation, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, the impugned order passed by the writ court is modified and consequently, the writ appeal stands partly allowed. There will be no order as to costs.

[D.K.K., J.] [P.B.B., J.]
06.07.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn



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To

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