



W.P.(MD) No.368 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.368 of 2014

P.Eswari

... Petitioner

/vs./

1.Tamil Nadu Electricity Board,
represented by its Chairman,
No.144, Anna Salai,
Chennai -42.

2.The District Collector,
Collectorate,
Theni District.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Theni District.

4.The Assistant Engineer,
Tamil Nadu Electricity Board,
Devaram,
Theni District.

5.Veerapparaj

6.Eswaran



W.P.(MD) No.368 of 2014

WEB COPY

7.Ayyanar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to provide adequate compensation of Rs.10 Lakhs to the Petitioner for the loss of her husband's life viz., C.Periyasamy due to electrocution caused by the negligence of the Respondents 4 to 7 and initiate appropriate disciplinary proceedings against the fourth respondent for failing in his duty within the stipulated period accordance with law.

For Petitioner : Mr.S.R.Venkatesan

For R1, R3 & R4 : Mr.S.Deenadhayalan
Standing Counsel

For R2 : Mr.G.Siva Raja
Government Advocate

For R5 to R7 : Mr.P.Muthuvijaya Pandian

ORDER

The writ petition is seeking for a Mandamus directing the respondents 1 to 3 to provide adequate compensation of Rs.10 Lakhs to the petitioner for the loss of her husband's life viz., C.Periyasamy due to electrocution caused by the negligence of the respondents 4 to 7, to initiate appropriate disciplinary



W.P.(MD) No.368 of 2014

proceedings against the fourth respondent for failing in his duty within the stipulated period accordance with law.

2.The case of the petitioner is that she is the resident of Devaram, Theni District and that her family has been eking out livelihood by maintaining 18 cows and 10 sheep, which have been taken care of by her husband. On 25.04.2013, her husband had died due to electrocution. The said incident has been occurred due to the damaged low tension line at Silaisamy Kovil. The death of her husband was due to the gross negligence of non maintenance of the low tension lines.

3.An FIR in Crime No.89 of 2011 was also filed and the same had been culminated into C.C.No.95 of 2012 on the file of the Judicial Magistrate Court, Bodinayakkanur. In spite of the repeated representations by the petitioner's daughter, no action has been initiated by the respondents 1 to 3 and hence, final representation dated 28.12.2013 was made to the respondents 1 to 4. Even this representation had received no response and therefore, the petitioner had approached this Court by filing this writ petition.



W.P.(MD) No.368 of 2014

WEB COPY

4.Heard Mr.R.Venkatesan, learned counsel for the petitioner, Mr.G.Sivaraja, learned counsel for the second respondent, Mr.S.Deenadhayan, Standing Counsel for the respondents 1, 3 and 4 and none appears on behalf of the respondents 5 to 7.

5.Mr.R.Venkatesan, learned counsel for the petitioner would submit that the respondents 1, 3 and 4 are duty bound to maintain proper electric lines. He would further submit that it is the duty of the respondents 1, 3 and 4 to see that the electricity supplied to the private individuals are not misused. In this case, they have neither done both of them and therefore, they are primarily liable for the death of the petitioner's husband and therefore, seeks compensation.

6.Countering his arguments, Mr.S.Deenadhayan, learned Standing Counsel for the respondents 1, 3 and 4 would submit that the entire incident had taken place in a private property. He would further submit that the respondents 5 to 7 had originally applied for availing_ electricity service connection for the Chellayei Amman temple. They had illegally extended the service connection to



W.P.(MD) No.368 of 2014

WEB COPY

another small temple, which is away from the Chellayei Amman temple, through PVC pipeline and the same was taken underground without getting any permission from the Electricity Board. Such violation came to light only after the unfortunate incident. Since the electricity service connection has been unauthorizedly used, the Electricity Board cannot be held liable for the death of the petitioner's husband. He would further submit that the incident had occurred only due to the illegal action of the respondents 5 to 7 and therefore, they are alone liable to pay any compensation payable to the petitioner.

7. Even though Vakalat has been filed on behalf of the respondents 5 to 7, none appears on behalf of them. I have considered the rival submissions made by the learned counsels appearing on either side.

8. It is an admitted case that the death of the petitioner's husband had occurred due to electrocution. The dispute raised by the Department is that the electricity has been illegally drawn from the service connection to another place. This is contrary to the provisions of the Indian Electricity Board. When such an illegality has been committed by certain private individuals, the Electricity Board



W.P.(MD) No.368 of 2014

should not be punished. At the same time, it is the duty of the Electricity Board not only to maintain proper and safe electricity by maintaining the lines and the equipments, but also to see that such electricity connection has not been misused by a person. Enough power has been vested with the Electricity Board for taking action against such violators.

9.In this case, it is admitted that there has been an illegal/unlawful use of the service connection by the respondents 5 to 7. Till the date of the incident, no action has been initiated by the Electricity Board. There is a clear negligence on the part of the Electricity Board in not performing their functions and exercising their powers under the Electricity Act. Hence, the Electricity Board cannot jerk away from the liability in paying compensation. Nothing has been placed on record to show as to what action has been initiated by them for such violation by the respondents 5 to 7.

10.In such event, I am of the view that the Electricity Board is bound to pay compensation. The learned counsel for the petitioner had placed reliance on the order of this Court made in ***W.P.(MD) No.6771 of 2013 (Manimuthu Pattan and***



W.P.(MD) No.368 of 2014

WEB COPY

another Vs. The Principal Secretary, Electricity Department, Chennai and others) dated 24.08.2022. Placing reliance on the aforesaid judgment, he would submit that this Court has to follow the calculations made as to compensation in this case. This has been countered by the learned Standing Counsel for the respondents 1, 3 and 4 stating that the Hon'ble Apex Court in ***SDO, Grid Corporation of Orissa Limited and others Vs. TimuduOram*** reported in **2005 6 SCC 156**, had stated that the quantum of compensation is to be arrived on the basis of the material facts pleaded and proved. He would submit that the affidavit of the writ petitioner does not disclose as to what is the loss that was suffered by the petitioner due to the incident and there were also no material facts pleaded much less prove.

11.Since there was no material placed before this Court as to the claim of the petitioner, based upon the materials I do not propose to fall in line with the judgment of this Court stated supra. However, it is apparent that by TANGEDCO proceedings No.5 dated 29.04.2013, the TANGEDCO on compassionate grounds had directed payment of exgratia to the cases of electrocution. The said amount of



W.P.(MD) No.368 of 2014

compensation is revised by further proceedings in TANGEDCO Proceedings No.6 dated 16.10.2019, wherein the compensation has been enhanced to Rs.5,00,000/-.

12.In the light of the proceedings dated 16.10.2019, I am of the view that the petitioner would be entitled for payment of exgratia amount of Rs.5,00,000/-. At this juncture, the learned Standing Counsel for the respondents 1, 3 and 4 would submit that the incident had occurred in 2011 and therefore, the earlier proceedings dated 29.04.2013 alone would be applicable. I am not in agreement with the said contention. Such proceedings of the Board are compassionate for the loss of life and and in view of the enhancement by the subsequent proceeding, the petitioner would be entitled for the same.

13.In view of the above, the Writ Petition is allowed. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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19.01.2023



W.P.(MD) No.368 of 2014

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To

The District Collector,
Collectorate,
Theni District.



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W.P.(MD) No.368 of 2014

K.KUMARESH BABU, J.

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W.P.(MD) No.368 of 2014

19.01.2023