



W.P.(MD)No.6295 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.6295 of 2015

J.Abdul Majid

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Department of Energy,
Fort St.George,
Chennai-9

2.The District Collector,
Trichirapalli District,
Trichy.

3.The Executive Engineer,
Operation-Maintenance,
Trichy/East Zone,
Tamil Nadu Power Generation and
Distribution Corporation,
Mannarpuram, Trichy-20.

4.The Assistant Executive Engineer,
Operation-Maintenance,
Thiruverumbur, Trichy.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the 3rd respondent in No.Se.Po/E.Kaa/Ki/Thi/Tho.Nu.U/Ko.Manu/A.No.07/15-16 dated 01.04.2015 and quash the same as illegal and unconstitutional and consequently directing the respondents to pay the compensation amount of Rs.10.00 lakhs together with interest at 18 percent per month from 10.03.2013 till date of realization.

(Prayer amended vide Court order dated 21.12.2022 in W.M.P.(MD).No. 21624 of 2022 in W.M.(MD).No.6295 of 2015 by KBJ)

For Petitioner :Mr.C.Gangai Amaran

For Respondents :Mr.V.Om.Prakash

Government Advocate for R1 & R2

:Mr.S.Deenadhayalan

Standing Counsel for R3 & R4

ORDER

This writ petition has been filed challenging the impugned order passed by the 3rd respondent in No. Se.Po/E.Kaa/Ki/Thi/Tho.Nu.U/Ko.Manu/A.No.07/15-16 dated 01.04.2015 and to direct the respondents to pay the compensation amount of Rs.



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10,00,000/- together with interest at 18% per month from 10.03.2013 till the date of realization.

2. The learned counsel for the petitioner would submit that the petitioner's son, while playing, had come in contact with a live electric wire and had died on the spot, due to the electrocution. He would submit that the respondents had not maintained the overhead line and that due to the inaction of the respondents in maintaining such over head lines, the death of the petitioner's son had caused. He would also submit that the complaint in Crime No.59 of 2013 had been registered with the Navalpattu Police Station, Trichy. Due to the death of his son, he and his family members have been put to severe mental agony and hardship. Therefore, he had made a representation to the 3rd respondent on 14.03.2013, seeking for compensation of a sum of Rs.10,00,000/-. He had followed it up with a further representation on 27.01.2015. However, till date, no response was forthcoming from the respondents. Hence, the petitioner had approached this Court originally, by filing writ petition seeking for a mandamus to direct the respondents to consider his representation. However, during the



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course of the proceedings, it had been brought to the notice of the petitioner that the representation of the petitioner was rejected by the proceedings of the 3rd respondent dated 01.04.2015 and therefore, the petitioner had sought for an amendment to the prayer sought in this writ petition and the same was ordered by this Court by order dated 21.12.2022. He would submit that according to the respondents, they were not responsible for the incident and that the owner of the building, who had constructed his house in violation of the regulations governing the safety distance, is alone responsible. In spite of the notice given to the said owner, as early as on 08.02.2013, he had not taken any steps to rectify the defect. The learned counsel for the petitioner would submit that it is the duty of the respondents to have taken appropriate action against the building of the owner, if he had not complied with the directions issued by the respondents and therefore, they have to be held responsible vicariously for the death of the petitioner's son. Hence, the petitioner had filed this writ petition.

3. Countering his arguments, the learned counsel for the respondents would submit that there was no fault on the part of the



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respondents, which lead to the death of the son of the petitioner. He would submit that the Assistant Engineer of Navalpattu, Tamil Nadu Power Generation and Distribution Corporation, by his proceedings dated 08.02.2013, had called upon the owner of the building namely D.Chandrasekaran and intimated him that his construction is in violation of the safety distance and advised him to rectify the mistake and also intimated him that the electricity board would not be responsible for any untoward incident. He would further submit that the said D.Chandrasekaran alone is responsible for the cause of an untoward incident. Pursuant to the said incident, the said D.Chandrasekaran had also applied for shifting of the low tension line and had paid necessary charges and the line has been now shifted, thereby providing necessary safety distance from the building. He would submit that the respondents cannot be held liable for the death of the petitioner's son and therefore, sought to reject the claim of the petitioner.

4. I have considered the rival submissions made by the learned counsel appeared on either side.



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5. It is an admitted fact that the son of the petitioner had died due to the electrocution by coming into contact with the live electric wire maintained by the respondents. It may be true that one D.Chandrasekaran had constructed a property in violation of the safety regulations, which had been noted by the Officer of the respondents, who had diligently issued notice to the said violator. However, thereafter, no steps have been taken by the respondents to rectify the defect. If such violation is found, the respondents cannot keep quiet by simply issuing a notice and effective action should have been taken by them. Be that as it may, an incident leading over the loss of life had taken place. Further, the defect was not rectified by the building owner and only on payment of charges the overhead line was shifted. Had the respondent shifted it at earliest, loss of life could have been avoided. The Tamil Nadu Power Generation and Distribution Corporation had issued Board Proceedings for making ex-gratia payment payable on compassionate grounds, in respect of accident arising out of electrocution. By the Board Proceedings in proceedings No.6 dated 16.10.2019, a sum of Rs.5,00,000/- has been fixed for fatal cases.



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6. Hence, in view of the said Board Proceedings, I direct the respondents to pay a sum of Rs.5,00,000/- as compassionate ground to the petitioner for the loss of life of his son on electrocution. In the present case, as claimed by the respondent, if it is because of the conduct of a 3rd party the incident had accord, it is open to the respondents to initiate appropriate action against such individual, including recovery of the exgratia amount directed to be paid by this Court in this writ petition.

7. With the aforesaid observations, this writ petition is partly allowed. The respondents 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. There shall be no order as to costs.

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Index : Yes / No
Speaking Order/Non Speaking Order
sbn



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To
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K.KUMARESH BABU, J.

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