



W.P.(MD)No.2876 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.2876 of 2016

Sasikala

... Petitioner

Vs.

1.The Superintending Engineer,
TANGEDCO (Supply and Distribution)
(formerly called as Tamilnadu Electricity Board)
Dindigul, Dindigul District.

2.The Executive Engineer,
TANGEDCO (Supply and Distribution)
(formerly called as Tamilnadu Electricity Board)
Batlagundu, Dindigul District.

3.The Assistant Executive Engineer,
TANGEDCO (Supply and Distribution)
(formerly called as Tamilnadu Electricity Board)
Kodaikanal,
Dindigul District.

4.The Assistant Engineer,
TANGEDCO (Supply and Distribution)
(formerly called as Tamilnadu Electricity Board)
Thandikudi,
Dindigul District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents herein to pay the sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation for the death of the petitioner's husband Moorthy on 30.06.2014 at Adaloor, Dindigul District due to the electrocution on the basis of his representation dated 28.03.2015 within the time stipulated by this Court.

For Petitioner :Mr.S.J.Lawrance

For Respondents :Mr.S.Deenadhayalan
Standing Counsel

ORDER

This writ petition has been filed seeking for a Mandamus, directing the respondents herein to pay the sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation for the death of the petitioner's husband Moorthy, on 30.06.2014 at Adaloor, Dindigul District, due to electrocution, on the basis of his representation dated 28.03.2015.

2. The case of the petitioner is that she is a permanent resident of Adaloor Village, Dindigul District and then she was married to one Moorthy. The learned counsel for the petitioner would submit that the



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husband of the petitioner has been managing the agricultural operation in the lands belonging to her father. To prevent encroachment in the property, the petitioner's husband and one Kamatchi were carrying on the fencing work. On 03.06.2014, when they were laying the fencing work, the transmission line passing near the land had snapped and had come into contact with the fencing and both Moorthy and Kamatchi were electrocuted and died on the spot. He would submit that the respondents ought to have been very cautious in maintaining the overhead lines. If maintained properly, it would have not been snapped and taken away the life of the petitioner's husband. Hence, she has approached this Court, by filing this writ petition seeking for a compensation of Rs.10,00,000/- from the respondents.

3. Countering the case of the petitioner, the fourth respondent herein had filed a counter for himself and the other respondents. The case of the respondents is that there is a heavy rain on 03.06.2014 and due to the velocity of the wind, the electric wire had snapped. He would further submit that the respondents have advertised by way of an awareness programme by



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requesting the general public not to avoid touching the electric poles, during the time of rain. He would contend that the incident would not have taken place if any precautionary measure had been taken by the deceased. The respondents cannot be held liable for the negligence of the deceased person. He would also deny that the electric pole has not been maintained properly and submit that whenever the fault is identified, the same will be rectified at the earliest. He would also rely upon the judgments of the Hon'ble Apex Court reported in **2011 (2) SCC 439** and **2005 (6) SCC 156** and submitted that the remedy seeking for compensation under Article 226 is not a proper remedy and the petitioner has to institute a civil suit. He would also contend that the compensation will be arrived on the basis of material evidences, which could not be gone into in this writ petition. Hence, he would pray to reject this writ petition as not maintainable.

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



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5. It is an admitted fact that the husband of the petitioner had died, due to the electrocution, while rectifying the fence. It is also an admitted fact that the fencing was energized, due to the snapping of the overhead wire running near the land, in which he was working. The TANGEDCO, vide Board Proceedings No.5 dated 29.04.2013, had come up with the policy decision to provide ex-gratia payment in case of fatal and non-fatal accidents, who had been affected by electrocution. By a further Board Proceedings No.6 dated 16.10.2019, the ex-gratia amount has been enhanced to a sum of Rs.5,00,000/-.

6. Considering the fact that the petitioner's husband had died leaving behind the petitioner and two children, I am of the view that they would be entitled to the ex-gratia payment, as per the Board Proceedings No.6 dated 16.10.2019. In view of the said Board Proceeding, I direct the respondents to pay a sum of Rs.5,00,000/- to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. If the petitioner seeks for further compensation, it is open to her to approach the Civil Court, by placing relevant materials and seek compensation.



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7. Accordingly, this writ petition is partly allowed. 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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K.KUMARESH BABU, J.

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