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W.P.No.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14268 of 2020

1. Vennila
2. Minor Sanmathi
3. Minor Dharaniga
4. Minor Sarvesh
5. Pavalayi

... Petitioners

Vs.

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd., (TNGEDCO),
No.825, Link Road,
Anna Salai, Chennai – 600 002.
2. The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd., (TNGEDCO),
Udayapatti Bye-pass,
Kamarajar Nagar Colony Post,
Ammamet, Salem – 636 014.
3. The Executive Engineer,
Operation & Maintenance,
Tamil Nadu Generation and
Distribution Corporation Ltd., (TNGEDCO),
Nethimedu, Annathanapatti Post,
Salem – 636 002.

... Respondents



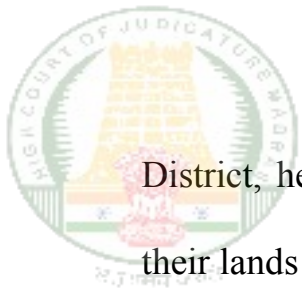
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only) towards compensation with interest at 12% per annum from the date of the death till date of realization, for the death of the first petitioner's husband M.Sengodan who died by electrocution due to negligence on the part of the respondents and their employees.

For Petitioners : Mr.P.Jagadeesan
For Respondents : Mr.I.Syed Sibghatulla,
Standing Counsel for TANGEDCO

ORDER

The Writ of Compensation has been filed seeking a sum of Rs.75,00,000/- towards compensation for the death of a person, who is aged about 43 years due to electrocution.

2. The writ petitioners are the legal heirs of the deceased, more specifically, his wife, mother and children. The deceased husband of the first writ petitioner viz., Late. Sengodan was an Engineering Graduate in B.E. Mechanical Engineering and was working as Production Engineer in G.T.P. Granites Limited and he was drawing a salary of Rs.23,100/- at the time of his death. The family is owning agricultural lands in Gopinathapuram Village. He was carrying on agricultural activities in the said lands. On 26.09.2018, when the husband of the 1st writ petitioner was irrigating the turmeric plants in the lands in Survey No.95/3A in Gopinathapuram Village, Omalur Taluk, Salem



District, he came to contact with the stay wire supporting the electric post, situated in their lands and was electrocuted.

3. The writ petitioners state that the electric post and stay wire were badly maintained by the respondents / Tamil Nadu Electricity Board, which caused the death of the husband of the 1st writ petitioner. Relying on the said incident, the learned counsel for the petitioner reiterated that it is the case of the negligence on the part of the Board authorities and therefore, the petitioner is entitled for a compensation of Rs.75,00,000/-. In support of the said contention, the salary certificate of the deceased person was produced. It is further contended that the family of the writ petitioners own agricultural lands and getting income from and out of the agricultural produces. Therefore, the compensation claimed in the Writ Petition is just and is to be considered.

4. It is contended that the death due to electrocution was established beyond any pale of doubt and considering the status of the deceased, the compensation is to be calculated by adopting multiplier under the Motor Vehicles Act, 1988.

5. The learned counsel for the respondents objected the said contention by stating that the electrocution and the death of the person is an unfortunate event, but the negligence on the part of the Board authorities is to be established through evidence. The analysis of the accident and findings of the Investigating Officer, as furnished by



the respondents would reveal as follows:-

“ On 26.10.2018 at about 08:30 hrs a Non-Departmental, Fatal, Electrical accident occurred to one Thiru M.Sengodan (Aged 45 years) S/o. Muthu Gopinathapuram, Omalur Tk, Salem Dt., feeding supply from Sakkarachettipatty SS VI / 200 KVA/ 22KV Sengaradu feeder of Karuppur110/22KVSS. The accident occurred to Thiru M.Sengodan, S/o Muthu (45years) while trying to climb from his agricultural field (which is 3 feet down from road) by holding the stay wire in the field the guy shackle was broken and the stay wire might have touched the jumper and got electric shock. The casualty got electric shock from LT line stay wire and fell down. The casualty died on the way to the hospital for treatment. He may be met with an electrical accident while climbing from his agricultural field to the road side and the stay wire may swing and the guy shackle insulator may be broken due to his load and the stay wire touches the LT phase of jumper resulting with electricution.”

6. The claim of the writ petitioners seeking compensation of Rs.75,00,000/- and the report submitted by the respondents are to be construed as disputed facts between the parties. Therefore, an adjudication is to be conducted to ascertain the facts and circumstances, so as to quantify the just compensation.

7. High Court in exercise of powers of judicial review under Article 226 of the Constitution of India cannot conduct a roving enquiry in such issues, where evidences are to be examined with reference to the documents and other factors. Mere assumption



in this regard would be insufficient to quantify the compensation to be paid to the legal heirs of the deceased person. Compensation, if granted based on such assumptions, it would result in miscarriage of justice and an elaborate adjudication is imminent for the purpose of quantifying the compensation, which is to be granted to the legal heirs of the deceased person.

8. The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court of India in the case of the ***Raman -vs- Uttar Haryana Bijli Vitran Nigam Limited*** reported in [(2014) 15 SCC 1] and the order of the learned Single Judge of the Madurai Bench of Madras High Court in W.P (MD) No.14974 of 2013 dated 16.11.2022.

9. No doubt, certain cases are decided by the High Court and the Apex Court of India for granting compensation in such cases of death due to electrocution. However, all such cases cannot be considered for grant of compensation in writ proceedings. In the event of undisputed facts, the High Court may be in a position to fix the quantum of compensation to be settled. Even an iota of doubt regarding the negligence part or the facts and circumstances, then the High Court is expected to exercise restraint in quantifying the compensation and the parties are to be relegated to approach the Civil



Court of law for the purpose of adjudication of issues on merits.

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10. Therefore, in all such cases, High Court is not expected to determine the quantum of compensation to be settled. Mere guess work in this context would result in an anomalous situation, wherein the parties may assume and claim compensation and in the event of granting such compensation, the same would lead to miscarriage of justice. Therefore, this Court is of the considered opinion that the compensation, as fixed by the Tamil Nadu Electricity Board alone is to be granted in a writ proceedings to mitigate the emergent circumstances of the family of the deceased person. Regarding the actual compensation or enhanced compensation, the parties are to be relegated to approach the competent Court of law for adjudication of disputed issues.

11. In the present case, as per the Board proceedings, a sum of Rs.5,00,000/- is to be paid to the petitioners for the death of the husband of the 1st writ petitioner. The further compensation, if any, the petitioner has to claim the same by approaching the competent Court of law.

12. In view of the facts and circumstances, the respondents are directed to pay a sum of Rs.5,00,000/- along with interest at the rate of 6% per annum from the date of death till the date of payment of compensation to the writ petitioners. The compensation



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of Rs.5,00,000/- along with interest at the rate of 6% is directed to be paid to the writ petitioners within a period of four weeks from the date of receipt of a copy of this order.

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13. Regarding further compensation, the writ petitioners are at liberty to approach the competent civil court of law and in the event of any such approach, the Court concerned shall entertain the suit, without reference to the delay, since the petitioners have already moved the Writ Petition, which is pending before the High Court for the past about three years.

14. Accordingly, this Writ Petition stands allowed. No costs.

02.01.2024

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Index : Yes

Speaking order

To

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S.M.SUBRAMANIAM, J.

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