



W.A(MD)No.1577 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1577 of 2024
and
CMP(MD)No.12320 of 2024**

1. The Superintending Engineer,
TANGEDCO, Theni,
Theni District.

2. The Assistant Executive Engineer,
TANGEDCO,
Andipatti,
Theni District.

... Appellants

vs.

1. Velmurugan
2. The Government of Tamil Nadu,
Represented by its Assistant Secretary,
Electricity Department,
Secretariat, Chennai-600 009.

3. Lalitha

... Respondents

Prayer : Appeal filed under Clause 15 of Letters Patent Act, against the order made in W.P(MD)No.3773 of 2021 dated 29.11.2023.

For Appellants : Mr.S.Deenadhayalan
For R1 : Mr.N.Rajasekar for
Mr.J.Senthil Kumariah



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For R2

: Mr.P.T.Thiraviam, Government Advocate

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JUDGMENT

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

The Electricity Board is on appeal aggrieved by the order of the Writ Court granting compensation of Rs.20,00,000/- for the injuries suffered by the son of the 1st respondent, a minor boy aged about 13 years who suffered extensive injuries due to electrocution followed by amputation of the limbs due in the accident that occurred on 16.11.2020.

2. The claim emanated as follows:

On 16.11.2020, the minor boy who was playing in the terrace of the rented house occupied by his grandparents, came in contact with the high tension wire and sustained grievous injuries in his right hand and right leg. This resulted in amputation of both the right limbs. Contending that it was the negligence on the part of the appellants that caused the accident, the 1st respondent / writ petitioner sought for a compensation of Rs.80 lakhs. The claim was resisted by the respondents contending that the high tension line is a very old line drawn for 50 years ago and the construction that was put up is unauthorised and therefore, the appellants cannot be made liable to pay the compensation. The quantum of compensation claimed was also stated to be



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excessive. The Writ Court found that rules 78, 79 and 80 of the Indian Electricity Rules which impose an obligation on the appellants to maintain a specific clearance distance between the building and the high voltage line, had not been complied with by the appellants resulting in the accident. The Court also ruled that the appellants cannot escape from the liability by contending that the building is unapproved structure. It was held that the appellants are under an obligation to conduct frequent inspection and see whether the distance regulations are maintained properly. They cannot allow construction to come up underneath high voltage lines and thereafter contend that since the construction had come up without permission, they would not be liable to pay the compensation. The Writ Court also found that there is a breach of a statutory duty that is cast upon the appellants. On the quantum, the Writ Court applied the multiplier method and fixed the compensation at Rs.20,00,000/-.

3. Mr.S.Deenadhayalan, learned counsel appearing for the Electricity Board would submit that the Writ Court cannot enter into the realm of the quantum of compensation and seeks to rely upon the judgment of a Division Bench of this Court in **Chairman, TANGEDCO, Chennai and others vs. Saraswathi and others [W.A.No.2419 of 2021, dated 24.06.2024]**, wherein, it was held that disputed questions of fact cannot be gone into under Article 226 of the Constitution of India. He would also draw our attention to paragraph 8



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of the said judgment which states that granting compensation by adopting the procedure followed under the Motor Vehicles Act, 1988, would set a wrong precedent. Reliance is also placed on the judgment of another Division Bench in **Tamil Nadu Electricity Board, Chennai and others vs. Zainulabdeen @ Jayanuladeen and others [W.A(MD)No.938 of 2016, dated 29.01.2024]** in support of the contention. In that case, the Division Bench has recorded a finding that the accident happened due to the negligence of the deceased and the FIR also showed that the deceased has climbed the second floor with the tin sheet in order to erect a banner. In such circumstances, the Division Bench held that the Electricity Board cannot be made liable to pay compensation.

4. We have no quarrel with the said proposition. Unless negligence is established, compensation cannot be granted.

5. Contending contra, Mr.N.Rajasekar, learned counsel appearing for the 1st respondent would draw our attention to the judgment of the Hon'ble Supreme Court in **Raman vs. Uttar Haryana Bijili Vitran Nigam Limited and others**, reported in **(2014) 15 SCC 1**, to contend that the Writ Court can always award reasonable compensation in accidents of like nature. The learned counsel would draw our attention to paragraph 16 of the said judgment, where, the Hon'ble Supreme Court has held that applying the multiplier method as



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applicable to motor accident cases, though may not be proper, but it would still be open to the Writ Court to award reasonable compensation. The Hon'ble Supreme Court refused to interfere with the award of Rs.60,00,000/- for the amputation suffered by the victim on the conclusion that it is reasonable compensation. In doing so, the Hon'ble Supreme Court observed as follows:

"16. The learned Single Judge of the High Court has awarded compensation keeping all these aspects of the matter and has applied the guiding principle of multiplier method after advertent to the case of Sarla Verma & Ors. v. Delhi Transport Corporation & Anr[6]. for the purpose of computation of just and reasonable compensation in favour of the appellant which method should not have been applied to the case on hand, particularly, having regard to the statutory negligence on the part of the respondents in not providing the safety measures to see that live electric wires should not fall on the roof of the building by strictly following the Rules to protect the lives of the public in the residential area. This Court in the case of Dr. Balram Prasad v. Kunal Saha[7], has deviated from following the multiplier method to award just and reasonable compensation in favour of the claimant in a medical negligence case. The same principle will hold good in the case on hand too. ..."

6. The attention of the Division Bench judgment in **Saraswathi's case (supra)** was not drawn to the judgment in **Raman's case (supra)** leading



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to the Division Bench concluding that the Writ Court cannot quantify the compensation. We are, therefore, unable to subscribe to the views of the Division Bench in **Saraswathi's case (supra)**. Once it is found that the accident had occurred and a minor boy aged about 13 years, had suffered amputation of both the right limbs, we cannot drive the parents to undergo the trauma of conducting a full-fledged civil suit seeking compensation as it has been repeatedly pointed out by the constitutional courts, refusal to exercise jurisdiction under Article 226 when an effective alternative remedy is available, is only a self-imposed restriction and it is not an absolute bar. In cases, where the Court finds that it will be too inhuman to drive the parties to a regular civil litigation, this Court can step in under Article 226 at least to minimise the sufferings. No doubt, the learned Single Judge had applied the multiplier method, but we find that the compensation of Rs.20,00,000/- is just and reasonable. We are of the opinion that it is little lesser also, but the claimant, the writ petitioner has not chosen to file appeal against the order of the learned Single Judge seeking enhancement. This observation of us should not be taken as an invitation to the 1st respondent / writ petitioner to file an appeal against the order of the learned Single Judge. Once it is found that the appellants have not kept up their statutory obligations of maintaining the distance or curbing such developments which result in the safe distance requirements being breached, they cannot avoid the liability to pay the compensation. We,



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therefore, do not find any merit in the writ appeal. The Writ Appeal therefore fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M, J.) (L.V.G, J.)
18.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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