



W.P(MD)No.17242 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.17242 of 2023

Lingasiva

... Petitioner

Vs.

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd.,(TANGEDCO)
144, Anna Salai,
Chennai - 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Ltd.,
(TANGEDCO),
Ettaiyapuram Road,
Thoothukudi - 628 002.
- 3.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution Corporation
Ltd.,(TANGEDCO),
Urban West, Ettaiyapuram Road,
Thoothukudi District - 628 002.
- 4.The Commissioner,
Tuticorin Municipal Corporation,
Palayamkottai Road,
Tuticorin - 628 003.



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5.The District Collector,
Thoothukudi,
Thoothukudi District.

... 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 just and reasonable compensation a sum of Rs.50 lakhs and a Government job to petitioner for the death of petitioner husband Jaya Ganesan who died due to electrocution within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.Aayiram K.Selvakumar
For Respondents	: Mr.S.Deenadhayalan Standing Counsel for R.1 to R.3 Mr.Anandkumar for R.4 Mr.R.Baskaran Additional Advocate General Assisted by Mr.T.Villavan Kothai Additional Government Pleader for R.5

ORDER

Heard both sides.

2.The petitioner got married to Jeyaganesan on 05.02.2012. Two children were born through the wedlock. The petitioner's husband was



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engaged in agricultural work and has been a vegetable vendor. On 25.05.2023 at around 06.00 a.m, he was walking near Anna statue roundabout in Thoothukudi main market. Photograph of the statue has been enclosed at page no.43 of the typed set of papers. An iron grill had been installed around the statue. The petitioner's husband happened to come in contact with the iron grill. He suffered electrocution and died on the spot. In this regard, Crime No.95 of 2023 was registered on the file of Thoothukudi Central Police Station. Claiming compensation for the aforesaid occurrence, this writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The Commissioner, Thoothukudi Corporation had filed a detailed counter affidavit. Likewise, TANGEDCO had also filed their response. The stand of TANGEDCO is that the roundabout in question is being maintained only by Thoothukudi Corporation and that there is no fault on the part of the TANGEDCO.



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5.The stand of the Thoothukudi Corporation is that there is no definite material to indict Thoothukudi Municipality Corporation and hence they cannot be fastened with any liability.

6.The learned Standing Counsel would also argue that since there is a disputed question of fact involved, the petitioner has to necessarily file civil suit for compensation. He relied on the decisions reported in 2000 (4) SCC 543 and 2005 (6) SCC 156. According to the Corporation, invocation of writ jurisdiction is misconceived.

7.I carefully considered the rival contentions and went through the materials on record.

8.The petitioner has enclosed a copy of the FIR in Crime No.95 of 2023 on the file of Thoothukudi Central Police Station. The case was registered under Section 174 Cr.P.C. The defacto complainant in this case is the brother of the deceased. The version projected in the FIR is that the deceased had laid his hand on the iron grill installed on the base of the Anna statue and suffered electrocution and died as a result. This version has been repeated in the affidavit filed in support of the writ petition.



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9.The Thoothukudi Corporation has not come out with any contra version. They could have lodged a protest petition before the jurisdiction Magistrate contesting the final report filed by the Police. They have not done so. The sequence of events is not in dispute.

10.Now the question that calls for consideration is on whom the liability should be fastened. It is seen that the statue was installed on behalf of a political party (DMK). However, it is the Corporation that is maintaining the statue. The service connection stands in the name of Commissioner, Thoothukudi Corporation. It appears that the electricity bill is borne by the concerned political party but service connection stands in the name of the Corporation. Therefore, the Corporation obviously cannot wash its hands off. This is a case in which the principle of absolute liability has to be applied. I hold that Thoothukudi Corporation is liable to compensate the petitioner.

11.Next comes the question of determining the compensation. The deceased was aged around 44 years at the time of death. In such cases, this Court will be justified in applying the formula invoked in motor accident claims.



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12.The deceased was the vegetable vendor. The writ petitioner is his wife. There are two children aged 11 years and 8 years respectively. His notional income can be fixed as Rs.6,500/- per month. It is seen from the records that there was strain in the matrimonial relationship and the petitioner and the children were living on their own. Adding future prospects at 25%, the monthly income can be taken as Rs.10,000/-. 1/4th can be predicted towards personal expenses. Multiplier will be 15. The loss of dependency will be $\text{Rs.}7,500 * 12 * 15 = \text{Rs.}13,50,000/-$. Loss of consortium will be Rs.1,20,000/-. Loss of estate and funeral expenses will be Rs.30,000/-. Total will be Rs.15 Lakhs.

13.The Corporation shall pay 1/3rd of the amount directly to the petitioner herein. The remaining 2/3rd will be deposited in a nationalized Bank in the name of the two children of the deceased. The petitioner shall be entitled to withdraw the interest accrued once in six months. After the children attain majority, it is open to them to withdraw the amount.



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14.This writ petition is allowed accordingly. There shall be no order as to costs.

24.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

The District Collector,
Thoothukudi,
Thoothukudi District.



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G.R.SWAMINATHAN, J.

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