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A.S.(MD)No.58 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

A.S.(MD)No.58 of 2017,
CROS.OBJ(MD).No.8 of 2018
and
C.M.P.(MD).No.3813 of 2017

A.S.(MD)No.58 of 2017:

The Assistant Engineer,
TNEB, Melur Main Road,
Narasingampatti Panchayat,
Madurai District, Madurai.

...Appellant

Vs.

1.K.Sentrayan (Died)
2.G.Vellaichamy

3.The District Collector,
Madurai District,
Madurai.

4.S.Velthai
5.S.Murugeswari
6.S.Thenmozhi

...Respondents

(Respondents 4 to 6 are brought on record
as LR's of the deceased 1st respondent vide
Court order dated 12.09.2023 made in C.M.P.
(MD)Nos.12013, 12015 and 12016 of 2023
in A.S.(MD)No.58 of 2017)



A.S.(MD)No.58 of 2017

PRAYER: This Appeal Suit filed under Section 96 of C.P.C., against the Judgment and Decree dated 26.02.2016 made in O.S.No.160 of 2013 on the file of the I Additional District Court, Madurai.

For Appellant : Mr.S.Ramanathan
For R4 to 6 : Mr.K.Suresh Kumar
For R2 & R3 : No Appearance

CROS.OBJ(MD).No.8 of 2018:

K.Sentrayan (Died)

- 1.S.Velthai
- 2.S.Murugeshwari
- 3.S.Thenmozhi

...Cross Objectors

(Cross Objectors 2 to 4 are brought on record as
LRs of the deceased sole cross objector vide Court
order dated 01.09.2023 made in C.M.P.(MD).No.
10925 of 2023 in Cross.Obj(MD).No.8 of 2018)

Vs.

- 1.The Assistant Engineer,
TNEB, Melur Main Road,
Narasingampatti Panchayat,
Madurai District, Madurai.

2.G.Vellaichamy

- 3.The District Collector,
Madurai District,
Madurai.

...Respondents

PRAYER: This Cross Objection filed under order 41 Rule 22 of C.P.C., against the Judgment and Decree dated 26.02.2016 passed in O.S.No.160 of 2013 on the



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file of the I Additional District Court, Madurai, with regard to the dismissal of the suit as against the 2nd respondent/1st defendant.

For Cross Objectors : Mr.K.Suresh Kumar

For R1 : Mr.S.Ramanathan

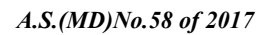
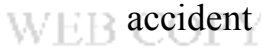
For R2 & R3 : No Appearance

COMMON JUDGMENT

The suit is filed by the father K.Sentrayan claiming compensation for the electrocution death of his son namely S.Surulipandi.

2. The deceased S.Surulipandi was 22 years old and a bachelor. He was staying in a rented house along with 10 other persons. The nature of the accident is that while the deceased was taking bath, he found the bathroom drainage was clogged. Hence, in order to clear the same, he climbed in the staircase. Accidentally, he came in contact with the electricity connection and was electrocuted.

3. The specific contention of the plaintiff / K.Sentrayan is that the electric connection which is coming from the post to the house is only at a distance of 1.5 feet from the post. Therefore, the claim is made against the Electricity Board as well. The said contention is resisted by the Electricity Board stating that the



5. After hearing the submissions of both the sides, this Court has given its anxious consideration. The primary contention of the claimant is that there was only 1.5 feet distance from the post to the house and hence the same is the cause of the accident. Generally, there will be safety clearance while the building is constructed. But whenever there is additional construction of floors, then the house owner is bound to take clearance from the Electricity Board. In the present case the house owner had not submitted such clearance was obtained by him, therefore the negligence ought to be fixed on the house owner. The further contention of the plaintiff is that the said electricity pole and the electric wires were damaged and it was already reported to the house owner as well as the



Electricity Board but the same were not replaced. Therefore, this Court is of the considered opinion when electricity wires were not properly maintained, the house owner is liable to pay the compensation. Further when there is a specific claim by the plaintiff that the wire from the electricity post is only at a distance of 1.5 feet and when there is no denial from the Electricity Board for such factual allegation, it ought to be considered that the fact stated by the plaintiff is correct and admitted by the Electricity Board. Moreover, the Electricity Board has not filed any accident report which they are supposed file after carrying out spot inspection. Therefore, this Court is of the considered opinion that the electricity wire which is coming from the post which is only 1.5 feet from the post to the house is the cause for the accident. Because there is only 1.5 feet distance between the post to the house, there is no safety clearance. If there is no safety clearance then the Electricity Board is liable for the same and therefore the negligence is fixed on the Electricity Board also.

6. The further contention of the plaintiff is that the drainage system was not maintained by the house owner. In such circumstances, non-maintenance of the drainage is the sole responsibility of the house owner and the owner is liable to paying some compensation.



7. While calculating the loss of income, the Court has deducted 50% of income towards personal expenses, since the deceased was a bachelor. The contention of the plaintiff is that the deduction ought to be 1/4th of the income by taking into account of the total number of family members. This Court is rejecting the said contention. The deduction is made based on the status of the deceased. In the present case, the status of the deceased is bachelor, therefore, the deduction should be 50% and the same has been correctly taken by the Trial Court, hence no interference is required.

8. As far as loss of love and affection or loss of consortium are concerned, the Trial Court has granted only Rs.30,000/- for love and affection. In the present case, four legal heirs and they are father, mother and two minor sisters. In such circumstances, each legal heir is entitled to Rs.40,000/- under the head of loss of love and affection. By taking into account of the inflation and the pathetic situation of the family, this Court is fixing the loss of love and affection as Rs. 50,000/- per claimant.

9. The next contention of the claimants is that the Court has granted only Rs.12,000/- towards funeral and transportation expenses. This Court is increasing the same to Rs.20,000/-.



10. As far as the liability on the house owner is concerned, the owner is liable for not attending to the damaged electricity wiring and hence this Court is fixing 20% liability on the house owner for not replacing the damaged electricity wiring. As far as the non-maintenance of damaged drainage pipes and clogged of drainage the owner is again liable. Hence, the owner is liable to pay Rs. 1,50,000/- for the non-maintenance of the drainage.

11. The modified award amount granted by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income	Rs.8,10,000/-	Rs.8,10,000/-	Confirmed
2.	Loss of Love and Affection	Rs.30,000/-	Rs.2,00,000/- (Rs.50,000/- * 4)	Enhanced
3.	Funeral and Transportation Expense	Rs.12,000/-	Rs.20,000/-	Enhanced
4.	For non-maintenance of Drainage	Nil	Rs.1,50,000/-	Enhanced
	Total	Rs.8,52,000/-	Rs.11,80,000/- (Rs.10,30,000/- + Rs.1,50,000)	Enhanced

Thus, the total compensation granted by the Trial Court to the tune of Rs. 8,52,000/- is enhanced to Rs.11,80,000/- by this Court. The father K.Sentrayan has died, hence, the mother and the two sisters shall share the compensation equally.



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12. i) The compensation for non-maintenance of drainage to the tune of Rs.1,50,000/- is payable by the owner / 2nd respondent herein to claimants / respondents 4 to 6/ cross objectors.

ii) Out of Rs.10,30,000/-, 20% liability (Rs.2,06,000/-) is fixed on the owner / 2nd respondent herein and 80% liability (Rs.8,24,000/-) is fixed on the appellant herein / electricity board.

13. The appellant Electricity Board is directed to deposit Rs.8,24,000/- with interest at the rate of 7.5% per annum from the date of plaint (02.02.2011) till the date of deposit and costs to the credit of O.S., on the file of claims Trial Court, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. The owner / 2nd respondent herein is directed to deposit Rs.3,56,000/- (Rs.1,50,000/- + Rs.2,06,000/-) with interest at the rate of 7.5% per annum from the date of plaint (02.02.2011) till the date of deposit to the credit of O.S., on the file of claims Trial Court, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposits, the claimants / respondents 4 to 6 / cross objectors are permitted to withdraw their shares equally with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by



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filing appropriate application before the Tribunal.

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14. With the above said observations, the appeal suit and the cross objection are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

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To:

1. The I Additional District Court,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.,

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