



W.P.(MD) No.5583 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.5583 of 2016
and
W.M.P.(MD) No.5013 of 2016**

1.K.Nagammal

2.K.Murugeswari

3.K.Shobana

... Petitioners

/vs./

1.The Chairman,
Tamilnadu Electricity Board,
N.P.K.R.R. Maligai,
Electricity Avenue, No.144,
Anna Salai, Chennai 600 002.

2.The Superintending Engineer,
Tamilnadu Electricity Board,
K.Pudur Madurai.

3.The Divisional Engineer,
Tamilnadu Electricity Board,
K.Pudur Madurai.



W.P.(MD) No.5583 of 2016

WEB COPY

4.The Assistant Engineer,
Tamilnadu Electricity Board,
Teppakulam,
Madurai.

5.The Commissioner,
Madurai Municipal Corporation,
Madurai.

*(R5 has been impleaded vide order
dated 20.02.2023)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay a sum of Rs. 10,00,000/- towards compensation for the death of the 1st petitioner's husband who met with an accident due to electric shock on 11.10.2015, due to negligence on the part of the respondents, to the petitioners.

For Petitioners : Mr.B.Senthilkumar

For R1 to R4 : Mr.S.Deenadhayalan
Standing Counsel

For R5 : Mrs.S.Devasena

ORDER

The writ petition had been filed seeking for compensation of the death of the first petitioner's husband, who met with an electrocution. The electrocution



W.P.(MD) No.5583 of 2016

had occurred while he had accidentally touched the electric pole maintained by the fifth respondent.

2. It is the case of the petitioners that if the lamp post had been properly maintained, the first petitioner's husband would have been alive today and he was the only sole breadwinner of the family.

3. The learned counsel for the fifth respondent relying upon the counter affidavit filed by the Commissioner, Madurai Municipal Corporation, Madurai, had contended that the entire incident happened because of the natural calamity. Since there was heavy rain on that day, the leakage had happened and that it was only the fourth respondent, who provides the electricity for the purpose of maintaining the street lights and has to be held liable.

4. However, the learned counsel for the fourth respondent had contended that the electricity poles are maintained by the fifth respondent Corporation and that being the only licensee to supply the electricity, the fourth respondent had supplied the electricity. In that context, he had relied upon the Division Bench of



W.P.(MD) No.5583 of 2016

WEB COPY
this Court which had upheld the findings of the learned single Judge as regards to the fixation of liability on the Corporation, which maintains such street lights.

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

6. Even though the case of the fifth respondent was that the electricity was supplied by the fourth respondent, the fifth respondent had not denied that the fifth respondent is in-charge of maintaining the street lights within the Corporation limits of Madurai. When the fifth respondent is in-charge, the fifth respondent ought to have taken care of maintaining the light poles in a proper condition. Therefore, the fifth respondent is alone liable for compensating the petitioners for the loss of the husband of the first petitioner.

7. A Division Bench of this Court in W.A.(MD) No.2419 of 2021, in a case where it had held that the death had caused due to electrocution of the electricity Board, had directed the TANGEDCO to pay a sum of Rs.5,00,000/- along with interest at the rate of 7% per annum from the date of death of the husband till the



W.P.(MD) No.5583 of 2016

date of payment and further held that the Court cannot adopt the principles of compensation available in the Motor Vehicles Act, 1988 and cannot exercise the Writ jurisdiction under Article 226 of the Constitution of India, for which purpose, the claimant has to approach the competent civil Court.

8. Considering the circumstances of the case, I am inclined to direct the fifth respondent herein to pay a sum of Rs.5,00,000/- to the petitioners for the death of the first petitioner's husband, who was the only breadwinner of the family. The petitioners are at liberty to approach the competent civil Court for seeking compensation for the death caused due to the negligence of the fifth respondent. If the competent civil Court arrives at a compensation and if the compensation is beyond the amount indicated above, then the fifth respondent shall only be entitled to pay the difference amount and at the same time, if the Civil Court comes to a conclusion that the petitioners are only entitled to compensation less than the aforesaid Rs.5,00,000/-, the balance amount shall be refunded by the petitioners to the fifth respondent.



W.P.(MD) No.5583 of 2016

WEB COPY

9. The Writ Petition stands disposed of, with the aforesaid directions.

However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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20.11.2024



WEB COPY



W.P.(MD) No.5583 of 2016

K.KUMARESH BABU, J.

mm

W.P.(MD) No.5583 of 2016

20.11.2024