



W.P.(MD) No.5674 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.5674 of 2016

and

W.M.P.(MD) No.7624 of 2023

P.Sankarasubramanian

.. Petitioner

Vs.

1.The Chairman,
TNEB Electricity Distribution Circle,
Anna Salai, Chennai.

2.The Superintending Engineer,
TNEB Electricity Distribution Circle,
Tirunelveli.

3.The Assistant Executive Engineer,
TNEB Electricity Distribution Circle,
Alwarkurichi, Tirunelveli.

4.Suseegar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 23.11.2015 in க.எண். 024226/500/நிபி4/உ.2/கோ.மின் விபத்து/2015 and quash the same as



W.P.(MD) No.5674 of 2016

WEB COPY

illegal and consequently direct the respondents to pay compensation to the petitioner for the death of his son due to lack of supervision of safety measures in the fourth respondent's well.

For Petitioner	:	Mr.J.Nandakumar
For R1 to R3	:	Mr.S.Deenadhayalan Standing Counsel
For R4	:	Mr.N.Dilip Kumar

ORDER

This writ petition has been filed challenging the communication of the second respondent disputing the liability of the compensation that has been sought for by the petitioner for the unfortunate death of his son.

2. It is the case of the petitioner that when his son had gone to take bath in the well belonging to the fourth respondent, there had been leakage of supply of electricity from the submersible pump, which led to an untoward incident leading to the death of the petitioner's son. He would submit that it is the failure on the part of the Electricity Department to monitor the service connection of the fourth respondent in



W.P.(MD) No.5674 of 2016

installing the safety measures and if the safety measures being installed by the fourth respondent, the incident would not have occurred at all and therefore, he would submit that the respondents are liable to pay compensation to the petitioners.

3. This has been countered by the learned Standing Counsel appearing for respondents 1 to 3 stating that the Hon'ble Apex Court in ***SDO, Grid Corporation of Orissa Ltd., and Others vs. Timudu Oram*** reported in ***(2005) 7 SCC 156*** had stated that the quantum of compensation is to be arrived on the basis of the material facts pleaded and proved.

4. I have heard the learned counsel on either side.

5. A Division Bench of this Court in W.A.No.2419 of 2021, dated 24.06.2024 has held as follows:

“4. The disputed facts cannot be adjudicated in a Writ Proceedings under Article 226 of the Constitution of India. Negligence, contributory



W.P.(MD) No.5674 of 2016

negligence, fixing liability, etc. are all to be determined through evidences and documents and by an adjudicatory process. Such a process cannot be undertaken in a Writ Proceedings. The Writ Courts are not expected to quantify compensation in the absence of proper adjudication. The Courts are expected to exercise restraint and in exceptional cases, the Constitutional Courts could grant compensation, by exercising discretionary powers in the event of gross injustice. However, it cannot be a routine affair.”

6. A further reading of the above Judgment of this Court would draw me to the conclusion that while exercising the powers under Article 226 only in exceptional cases, the Court can grant compensation.

7. In view of the aforesaid categorical pronouncement by the Hon'ble Apex Court as well as this Court and since the incident had occurred in the well belonging to the fourth respondent and respondents 1 to 3 have disputed their liability, it would be only open to the petitioner to approach the appropriate civil Court seeking for compensation, as this



W.P.(MD) No.5674 of 2016

WEB COPY

Court in exercise of Article 226 of the Constitution of India cannot fix the compensation, which would involve disputed question of facts including the liability and the measure of compensation which the petitioner would be entitled to.

8. In such view of the matter, the writ petition would not be entertained and the same is liable to be dismissed. However, the petitioner would be at liberty to approach the appropriate civil Court seeking for damages. When the petitioner approaches the appropriate civil Court, the period of pendency of this writ petition shall be excluded by calculating the period of limitation for instituting the suit.

9. With the aforesaid liberty, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, W.M.P.(MD) No.7624 of 2023 is closed.

21.11.2024

NCC : Yes/No
Index : Yes/No
abr



W.P.(MD) No.5674 of 2016

WEB COPY

To

- 1.The Chairman,
TNEB Electricity Distribution Circle,
Anna Salai, Chennai.
- 2.The Superintending Engineer,
TNEB Electricity Distribution Circle,
Tirunelveli.
- 3.The Assistant Executive Engineer,
TNEB Electricity Distribution Circle,
Alwarkurichi, Tirunelveli.



WEB COPY



W.P.(MD) No.5674 of 2016

K.KUMARESH BABU, J.

abr

W.P.(MD) No.5674 of 2016

Dated: 21.11.2024