



W.A.(MD)No.133 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

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1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Race Course Road,
K.Pudur,
Madurai - 625 007.

3.The Chief Engineer,
Tamil Nadu Electricity Board,
Race Course Road,
K.Pudur,
Madurai - 625 007.

4.The Assistant Engineer,
Tamil Nadu Electricity Board,
Chekkanoorani Village,
Usilampatti Taluk,
Usilampatti Taluk,
Madurai District.

: Appellants/Respondents

Vs.

1.K.Muthu

: 1st Respondent/Writ Petitioner

2.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George, Chennai.

: 2nd Respondents/1st Respondent



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PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 02.12.2016 passed in W.P.(MD) No.9039 of 2013.

For Appellant : Mr.S.Deenadhayalan

For Respondents : Mr.R.Manoharan for R1
Mr.A.K.Manikkam
Spl. Govt. Pleader for R2

JUDGMENT

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

The first respondent, as the petitioner, has filed the writ petition seeking for issuance of a Writ of Mandamus to direct the appellants and the second respondent to pay a sum of Rs.10,00,000/- as compensation to the death of the first respondent/petitioner's son due to electrocution.

2. According to the first respondent/writ petitioner, on 24.04.2020, while his son, namely, Muthupandi, aged about 40 years, and his wife were taking drinking water from the nearest pipe-line of their house, the electric wire between Pole Nos.744952043 and 744952044 snapped and fell down on the



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petitioner's son and caused his sudden and unexpected death on the spot.

Subsequently, a case was registered in Crime No.201/2010 by the Sub-Inspector of police, Chekkanoorani Police Station, Madurai District and the body of the deceased was sent for Postmortem. Further, in the postmortem report dated 25.04.2010, it is opined that the death of the son was caused due to cardio respiratory arrest owing to electrocution.

3. According to the first respondent/writ petitioner, his son, who was the sole breadwinner of the family, left them into lurch. The death of the petitioner's son was caused due to the negligence and carelessness of the respondents in maintaining the electric poles and wires in an improper manner. At the time of death, the said deceased Muthupandi was working as driver in a Private Carrier and was earning sufficiently. Thereafter, the first respondent/petitioner requested the appellant Board by sending several representations for the payment of compensation for the act of negligence on the part of the Electricity Board. Since they have not taken action, the first respondent/petitioner was forced to seek compensation by filing the writ petition.



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4. According to the appellants, the disputed question of fact regarding the act of negligence involved would not be decided in the writ petition and hence, the only remedy to the first respondent/petitioner is to file a civil suit. Further, the house of the deceased situates nearby a burial ground and the people used to throw the garlands and the same caused weakening the electric lines. Due to that, the line gets weakened and could not bear the load of High Tension and therefore, the conductor gets snapped. The monthly maintenance is also carrying out in all transmission lines and that too, high tension transmission lines.

5. The Writ Court, after considering the both sides submissions, allowed the writ petition and awarded compensation of Rs.10,00,000/- with interest at the rate of 6% p.a., from the date of filing of the writ petition till the date of realization to the first respondent/writ petitioner. The Writ Court directed the appellants to pay the said amount to the first respondent/writ petitioner within a period of six weeks. Challenging the same, the present writ appeal has been filed.



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6. The points for determination in this appeal, are :

(i) Whether this Writ Petition is maintainable or not?

(i) Whether the deceased died due to the negligence of the appellants

Board?

(ii) Whether the quantum of compensation of Rs.10,00,000/- awarded

by the Writ Court is correct or not?

7. It is a well settled principle of law declared by the Hon'ble Apex Court that if the facts are not in dispute, the legal heir of the victim of the riot, custodial killing or death due to negligence on the part of the state authorities, can claim compensation in writ proceedings. The only impediment in entertaining the writ petition is that there may be factual disputes, such as, the manner of death, whether there was negligence or not, the age and income of the deceased, etc.,. In this case, there is no dispute with regard to the manner of death and also the age of the deceased. At the same time, negligence is also admitted in the counter. Hence, the present writ petition is maintainable. Hence, the first point is answered accordingly.

8. Insofar as negligence aspect is concerned, it is seen that the Writ Court after considering the entire materials available on record, found that the



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appellants have categorically admitted in their counter affidavit that the deceased died of cardio respiratory arrest due to electric shock. In addition, the cause of death of the deceased has been clearly reflected in the First Information Report and the Postmortem report. Thus, we are of the view that the Writ Court has rightly fixed the negligence on the part of the appellant Board. Hence, the second point is answered accordingly.

9. Insofar the quantum is concerned, it is seen that at the time of death, the deceased was aged 40 years and he was working as driver in a private carrier, but no evidence has been adduced in this regard. Though the claimant has not proved the income of the deceased, the Writ Court has rightly taken the notional income of the deceased at Rs.6,000/- per month. As per the Judgment reported in **2012 SCC 421 (Santhose Devi Vs National Insurance company Ltd and others)**, 30% of income has been added towards future prospects. Further, the Writ Court by following the Judgment of the Honourable Supreme Court in the case of **Smt. Sarala Varma and others Vs Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**, came to the conclusion that the claimant is entitled to Rs.10,00,000/-. Hence, we are of the view that the amount awarded by the Tribunal is reasonable one.



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10. The learned counsel for the appellants has produced a copy of the Judgment of this Court in W.A(MD)No.938 of 2016 dated 29.01.2024, wherein, the Division Bench of this Court allowed the writ appeal and observed that nearly 22 years have lapsed from the date of occurrence and one of the writ petitioners, i.e., the father of the deceased Syed Mohammed is no more and the mother of the deceased has also gone out of contact. The Electricity Board has already paid Rs.1,00,000/- each to the writ petitioners therein by way of cheque dated 04.07.2016 and the same has been encashed by them. Therefore, without disturbing the money already paid to the writ petitioners, this Writ Appeal is liable to be dismissed. However, we are of the view that the said Judgment is not applicable to the present case, because, in the present case, the claimant is alive. Further, in that case, when the deceased was trying to fix a tin sheet in the second floor, they got in contact with hanging live electrical wire and died due to electrocution. However, in this case, when the deceased was taking water from the pipe, the wire has been lying low and fall down on him. Therefore, the Judgment produced by the appellant is not accepted by us.

11. At this juncture, the learned counsel for the appellants seeks this Court to reduce the rate of interest fixed by the Writ Court. Hence, accepting



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the request of the appellants, we reduce the rate of interest to 4% p.a., from 6%

p.a.

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12. In such view of the matter, this Writ Appeal is dismissed. No costs.

[V.B.S.,J.] [K.K.R.K.,J.]

27.02.2024

skn

NCC : Yes/No

Index : Yes / No

Internet : Yes

To
The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George, Chennai.



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