



W.A.(MD).No.1338 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD).No.1338 of 2017

and

C.M.P.(MD).No.9492 of 2017

- 1.The Tamil Nadu Electricity Board,
represented by its Chairman,
Annasalai,
Chennai 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Parvathipuram,
Nagercoil,
Kanyakumari District.
- 3.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Thalakulam Road, Neyyoor Post,
Kanyakumari District 629 902.
- 4.The Junior Engineer (Distribution),
Tamil Nadu Electricity Board,
Colachel,
Kanyakumari District 629 251.



W.A.(MD).No.1338 of 2017

5.The Junior Engineer (Maintenance),
Tamil Nadu Electricity Board,
Colachel,
Kanyakumari District,
Pin 629 251.

... Appellants

Vs.

1.T.Ravichandran
2.A.Mary Alwin Santhi

3.The State of Tamil Nadu
represented by its Secretary,
Department of Electricity,
Fort St. George,
Chennai 600 009.

... Respondents

Prayer: Writ Appal is filed under Clause 15 of Letters Patent, against the order of this Court in W.P.(MD).No.2204 of 2011, dated 17.12.2014.

For Appellants	: Mr.S.Deenadhayalan
For R1 & R2	: Mr.K.N.Thambi
For R3	: Mr.A.K.Manikkam
	Special Government Pleader



W.A.(MD).No.1338 of 2017

WEB COPY

J U D G M E N T

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

This writ appeal has been filed against the order of the learned single Judge passed in W.P.(MD).No.2204 of 2011, dated 17.12.2014, wherein the petitioners have sought for a direction to the respondents to pay the petitioners an amount of Rs.20,00,000/- with interest at the rate of 24% per annum thereon for the period from 16.08.2010 till the date of payment as compensation for the accidental death of their son Eugin Renish, on 16.08.2010.

2. The case of the petitioners is that they are the parents of one Eugin Renis, who died at the age of 17 years due to electrocution. The accident had occurred on his way to Gymnasium at Carmel Gym, 2nd Floor of SUS Bank Building, Kalimar, Colachel, Kanyakumari District. During the month of December 2009, the respondents shifted the electrical post, which was on the opposite side, near SUS Bank building and the said electricity line was not insulated and left exposed. The deceased while going to gymnasium in the upstairs accidentally came in conduct with the electric line and met with the unfortunate end. The complaint given regarding this accident is also registered



W.A.(MD).No.1338 of 2017

in Crime No.276 of 2010 for the offence under Section 174 of Cr.P.C. Hence,

the petitioners have claimed compensation before the TNEB. But the Junior Engineer denied the cause for the accident. Therefore, the petitioners have approached this Court seeking direction to the respondents to pay a sum of Rs. 20,00,000/- with interest at the rate of 24% per annum as compensation for the accidental death of their son Eugin Renish.

3. The respondents 2 to 6 filed a counter stating that in the month of December 2009, at the request of State Highway Authorities to shift the E.B. Poles and the line passing through Colachel – Nagercoil Road for widening the road running in front of Colachel Municipal Bus Stand, the E.B. Poles and lines were shifted by providing adequate horizontal clearance to the row of building existing nearby on the eastern side. The Gymnasium was functioning in 2nd floor of SUS Building having five floors and situated adjacent to the road on eastern side. Further, the line passes through the road in front of concerned 2nd floor of SUS Building is fixed by providing seven feet vertical clearance from the floor and having sufficient horizontal clearance. There is no possibility of accidental touch of the line from the 2nd floor of the said building. The SUS Building failed to carry safety measures, rules and regulations prescribed by Municipality. By violating the rules and regulations the building was



W.A.(MD).No.1338 of 2017

constructed and without providing sufficient space facing road the building was

constructed and there is no negligence on the part of the Electricity Board.

Hence, the petitioners are not entitled to get compensation from the Electricity Board.

4. Considering the age and other qualities of the deceased, the learned single Judge of this Court allowed the writ petition and awarded a sum of Rs. 8,00,000/- as compensation and the respondents 1 and 2 are directed to pay the said award amount within a period of four weeks from the date of receipt of a copy of that order. Challenging the same, the present writ appeal has been filed by the Tamil Nadu Electricity Board.

5. The learned counsel appearing for the appellant/TNEB would submit that in the petition filed under Motor Vehicles Act, the claimants ought to have pleaded and proved by producing evidence. He would further submit that writ of Mandamus for any money claim is not maintainable unless such claim is a constitutional relief. Further, the accident occurred only due to rash and negligent act of the deceased. Hence, the appellants/TNEB is not liable to pay any compensation to the petitioners.



W.A.(MD).No.1338 of 2017

WEB COPY

6. Heard Mr.S.Deendadhayalan, learned Standing counsel appearing for the appellants, Mr.K.N.Thambi, learned counsel appearing for the respondents 1 and 2 and Mr.A.K.Manikkam, learned Special Government Pleader appearing for the third respondent and perused the materials available on record.

7. It is seen that the writ petitioners' son died due to electrocution and the electric line was hanging loose uninsulated condition and left exposed. Once the death is occurred due to negligence on the part of TNEB, there is no escape from the liability to pay compensation to the petitioners. Further, the petitioners had lost their only son with no hope of getting another child and put into serious mental suffering and unhappiness and they have also produced various certificates to show that the deceased was intelligent and hard worker. Considering the same, the learned single Judge of this Court fixed the monthly salary of the deceased at Rs.6,000/- and Rs.72,000/- per annum and awarded a sum of Rs.8,00,000/- as total compensation, which is just and reasonable. Hence, this Court is inclined to confirm the award passed by the learned single Judge of this Court and there is no merit in the case of the appellants.



W.A.(MD).No.1338 of 2017

WEB COPY

8. In the result, this Writ Appeal is dismissed, confirming the order passed by the learned single Judge of this Court in W.P.(MD).No.2204 of 2011, dated 17.12.2014. In view of the dismissal of the appeal, the appellants/TNEB are directed to pay the said award amount within a period of twelve weeks from the date of receipt of a copy of this judgment and the respondents 1 and 2/writ petitioners are permitted to withdraw the same. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] & [K.K.R.K.,J.]
14.03.2024

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

akv



WEB COPY



W.A.(MD).No.1338 of 2017

V.BHAVANI SUBBAROYAN,J.
and
K.K.RAMAKRISHNAN,J.

akv

W.A.(MD).No.1338 of 2017

14.03.2024