



W.P.(MD) No.14194 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.14194 of 2017

G.Panjavarnam

... Petitioner

/vs./

- 1.The State of Tamil Nadu,
Represented by The Principal Secretary,
Energy Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.
- 2.The Chairman Cum Managing Director,
TANGEDCO,
10th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai – 600 002.
- 3.The Assistant Executive Engineer, (Rural)
PWD Electrical,
TANGEDCO,
Sivagangai Collectorate,
Sivagangai – 630 562.
- 4.The District Collector,
Office of the District Collector,
Sivagangai – 630 562.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to pay fair and reasonable amount of compensation for the Electric shock death of the petitioner's husband by name A.Govindan, aged 48 years and two buffaloes and two calf, consequently to direct the respondents to provide employment to any one of the family members of the deceased in respondent No.1 department on compassionate ground within the time stipulated by this Court and pass such other orders.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader for RR1 & 4

: Mr.S.Deenadhayalan
Standing counsel for RR2 & 3

ORDER

This Writ Petition had been filed seeking for a compensation for the death of the petitioner's husband, 2 buffaloes and 2 calves which had occurred due to the electrocution of the ill maintained electrical wire by the respondents.

2. An FIR had also been registered which would indicate that the electrical poles which had been maintained by the Department had fallen and



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the wires were touching the ground and due to the stagnation of the rain water, the animals belonging to the petitioner had got electrocuted and the petitioner's husband also died in the electrocution, as he was the one who had taken the cattle for grazing.

3. It is the case of the petitioner that had the respondents maintained the post in a proper manner, the entire incident would not have occurred or even had they taken any action on such danger caused by the pole by disconnecting the electricity, the incident would not have occurred. Therefore, it is the respondents who are liable to pay compensation.

4. Countering his arguments, the learned counsels appearing for the respondents would submit that the electrical poles and lines were well maintained and only due to the inclement weather of continuous rain, the pole had given up, as the soil had eroded and the wire came down. It is the petitioner's husband who ought to have been careful while grazing the buffaloes that too in a rainy season and therefore, the respondents cannot be found liable for the incident that had occurred. It is only due to the negligence of the



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petitioner's husband, the entire incident had occurred and therefore, the Writ Petition cannot be entertained and would have to be dismissed.

5. I have considered the submissions made by the learned counsels appearing for their respective parties and had perused the materials available on record.

6. It is an admitted case that the petitioner's husband and the cattles had died due to the electrocution, due to the falling down of the electric pole which caused the live electric wire to get in touch with the rain water in which the cattles and the husband of the petitioner had come in contact and had unfortunately died.

7. As rightly pointed out by the learned counsel for the petitioner that had the respondents taken proper care in maintaining the electrical poles that too during the rainy season or had they taken care in disconnecting the electricity line, when electric pole had fallen down, then the respondents cannot be held liable. Since, they have not acted diligently during the rainy season and also taking note that no action had been initiated by them for disconnecting the



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electricity, after the pole had fallen or if they have taken any safety measures to automatic disconnection of electricity, there would not have been loss of life of human and cattle. Hence, they are clearly negligent in not maintaining the electrical poles and lines in a proper manner, that too without providing safety measures in the case of such incidents.

8. I had an occasion to deal with a similar issue, where the liability was fastened on the Electricity Department and relying upon the Board Proceedings issued by the Department, I have directed the payment of *exgratia* amount of Rs.5,00,000/- as envisaged in the Board Proceedings of the respondent. The said order came to be passed in ***W.P.(MD).No.368 of 2014, dated 09.01.2023.*** For better appreciation, the relevant paragraphs of the said order is extracted hereunder:-

10.In such event, I am of the view that the Electricity Board is bound to pay compensation. The learned counsel for the petitioner had placed reliance on the order of this Court made in W.P.(MD) No.6771 of 2013 (Manimuthu Pattan and another Vs. The Principal Secretary, Electricity Department, Chennai and others) dated 24.08.2022. Placing reliance on the aforesaid judgment, he would submit that this Court has to follow the



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calculations made as to compensation in this case. This has been countered by the learned Standing Counsel for the respondents 1, 3 and 4 stating that the Hon'ble Apex Court in SDO, Grid Corporation of Orissa Limited and others Vs. TimuduOram reported in 2005 6 SCC 156, had stated that the quantum of compensation is to be arrived on the basis of the material facts pleaded and proved. He would submit that the affidavit of the writ petitioner does not disclose as to what is the loss that was suffered by the petitioner due to the incident and there were also no material facts pleaded much less prove.

11.Since there was no material placed before this Court as to the claim of the petitioner, based upon the materials I do not propose to fall in line with the judgment of this Court stated supra. However, it is apparent that by TANGEDCO proceedings No.5 dated 29.04.2013, the TANGEDCO on compassionate grounds had directed payment of exgratia to the cases of electrocution. The said amount of compensation is revised by further proceedings in TANGEDCO Proceedings No.6 dated 16.10.2019, wherein the compensation has been enhanced to Rs.5,00,000/-.

12.In the light of the proceedings dated 16.10.2019, I am of the view that the petitioner would be entitled for payment of exgratia amount of Rs.5,00,000/-. At this juncture, the learned Standing Counsel for the respondents 1, 3 and 4 would submit that



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the incident had occurred in 2011 and therefore, the earlier proceedings dated 29.04.2013 alone would be applicable. I am not in agreement with the said contention. Such proceedings of the Board are compassionate for the loss of life and in view of the enhancement by the subsequent proceeding, the petitioner would be entitled for the same.”

9. As per the Board Proceedings No.6, dated 06.10.2019, in case of fatal accidents, Rs.5,00,000/- (Rupees Five Lakhs only) had been fixed as *ex-gratia* payment for the human and for animals it had been fixed as Rs.25,000/- (Rupees Twenty Five Thousand only). Since, it is an admitted case that the petitioner had lost her husband and 2 buffaloes and by applying the *ex-gratia* payment applicable for payment on compassionate grounds, the respondents are directed to pay a sum of Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only) to the petitioner and such payment shall be made within a period of eight (8) weeks from the date of receipt of a copy of this order. The Writ Petition is disposed of, accordingly. However, there shall be no order as to costs.

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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