



A.S.No.283 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated 10.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

A.S.No.283 of 2022
and CMP.No.10372 of 2022

1. UNION OF INDIA

Rep. by the Chief Secretary,
Government of Pondicherry, Goubert Avenue,
Pondicherry.

2. THE ASSISTANT ENGINEER,

Thethampakkam Sub Division,
Electricity Department, Thethampakkam, Pondicherry.

3. THE JUNIOR ENGINEER

Thirukanur O and M,
Electricity Department,
Thirukanur, Pondicherry.

... Appellants

Versus

1.Sumathi

2.Ravi @ Narayanan

3.Velvizhi

... Respondents

Prayer: Appeal filed under Section 96 of Code of Civil Procedure, to set aside the judgment and decree dated 18.03.2021 in O.S.No.45 of 2017 on the file of II Additional District Court, Puducherry.

For Appellants : Mr.R.Sreedhar



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Additional Government Pleader (Pondy)

For Respondents : Mr.V.Kamala Kumar for R1
No appearance for R2 and R3

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JUDGMENT

Challenging the decree and judgment of the Trial Court directing the appellant along with other private defendants to pay the compensation amount on account of death of the plaintiff's minor son in electrocution, the present appeal is filed.

2. Brief background of the case is as follows:

2.a. The plaintiff's minor son one Manikandan was studying 5th standard at the relevant point of time. The plaintiff's house and the property belonging to the first defendant are situated diagonally opposite on Manalipet Padai, Kamaraj Nagar, Koonichempet. The first defendant started construction of residential house in the month of July 2013. The 2nd defendant who is a close relative of the 1st defendant residing on the opposite row of the first defendant's house next to the plaintiff's house was offering her help and service by way of providing electricity service connection illegally to the 1st defendant's site. Notwithstanding the fact, the electricity supply was extended illegally, the electrical junction box at the 1st



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defendant's property was haphazardly and dangerously tied at a very low level to a

Poovarasan tree, situated abetting the road. On 10.10.2013 at about 4 pm, her minor son, Manikandan who was playing on the street came into contact with the live wires at the 1st defendant's construction site got electrocuted and died on the spot. Hence, filed the suit claiming compensation.

2.b. The first defendant filed a written statement to the effect that first defendant has not taken electricity from the second defendant, therefore, disputed the claim. The second defendant taken a stand that they have not offered electricity connection to the first defendant. The defendants 3 to 5 have filed written statement to the effect that accident happened in the premises of the first defendant and the electricity supply was extended illegally by the second defendant. The Electricity Department has not provided service connection, permanently or temporarily to the first defendant's premises during the period of the alleged accident. The defendants 4 and 5 were and are regularly maintaining and supervising all the electric wires belonging to the Electricity Department within the region under their jurisdiction and are taking steps to curtail illegal tapping of electricity. According to them, they are not responsible for the death of the



Manikandan. Hence, disputed the liability to pay the compensation.

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2.c. Based on the above pleadings, the Trial Court framed the following issues:

1. Whether the 2nd defendant illegally extended the electricity service connection for the 1st defendant site as alleged?
2. Whether the death of deceased Manikandan was due to the negligence of defendants?
3. Whether the plaintiff is entitled to the suit relief as prayed for?
4. To what other relief the plaintiff is entitled to ?

2.d. On the side of the plaintiff, PW1 to PW3 were examined and Exs.A1 to A18 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B1 to B5 were marked.

2.e. Based on the evidences and materials, the Trial Court found that the defendants are liable to pay the compensation. The Trial Court has specifically recorded the fact that the second respondent has committed theft of electricity



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connection which has not properly checked by the Government Department.

Challenging the findings, the defendants 3 to 5 have filed the appeal.

3. The only ground on which the appeal is urged before this Court by the learned counsel for the appellants is that the Trial Court having found that defendants 1 and 2 alone are responsible for committing theft of electricity, directed the appellant to pay the compensation. Hence, seeks for allowing this appeal.

4. Whereas, the learned counsel for the respondents would submit that the Trial Court has analysed the fact that the authorities have not taken steps to prevent theft or illegal tapping of the connection which itself is nothing but clear case of negligence. Hence, seeks for dismissal of this appeal.

5. In light of the above, now, the points arise for consideration are as follows:

i) Whether the appellants being the supplier is not liable to pay the compensation



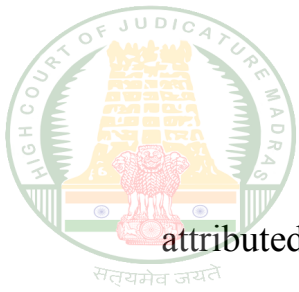
for the illegal tapping of the electricity by a stranger?

ii) Whether the respondent is entitled to pay compensation as ordered by the Trial Court?

Points (i) and (ii)

6. The fact that the plaintiff's minor son died by electrocution on 10.10.2013 in the first respondent premises is not disputed. The Crime in FIR.No.59 of 2013 was registered in this regard. Electrocution is also admitted by both sides. Postmortem certificate is also filed in Ex.A2. The evidence of parties clearly indicate that while constructing the house by the first defendant, temporary electricity connection has been illegally taken in the second defendant's house by using junction box. The junction box is also kept on the tree, these facts have been clearly admitted by the DW1. When junction box is kept on the tree, minor while playing came into contact. Therefore, when a person is tapping electricity connection illegally from the other connection without any permission, not supervising such act is nothing but clear case of negligence.

7. The only contention of the Department is that since the entire act could be



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attributed only to the defendants 1 and 2, they are liable to pay the compensation.

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In this regard, it is relevant to note that the company or government department supplying electricity is liable for payment of compensation of acts in electrocution even without any proof of negligence for the simple reason that exception to the Rule of Strict Liability is not available to the Board which supplied electricity unless it is established that the Board has taken all steps or precaution to prevent such illegal tapping or the electricity. In the given case on hand, construction activities have been carried away for many months for which electricity has been illegally tapped from the second defendant's house without any permission and junction box has been tied on the tree. Had the authorities visited the place and taken steps to prevent such illegal tapping, electrocution would not have happened. Therefore, any Board of Government Department engaged in hazardous or dangerous activities and harm is caused to any person on account of such operation, the rule of strict liability would come into play. Such Board of Government Department cannot escape from its liability.

8. It is relevant to note that the Hon'ble Supreme Court in the case of

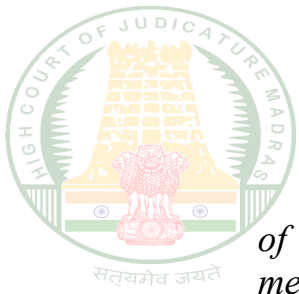


Madhya Pradesh Electricity Board vs. Shail Kumari and others reported in 2002

WEB (2) SCC 162 has held that even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The relevant paragraphs of the judgment reads as follows:

"8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as "strict liability". It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.

14. The Privy Council has observed in Quebec Rly., Light, Heat and Power Co. Ltd. v. Vandry [1920 AC 662 : 89 LJPC 99 : 123 LT 1] that the company supplying electricity is liable for the damage without proof that they had been negligent. Even the defence that the cables were disrupted on account of a violent wind and high-tension current found its way through the low-tension cable into the premises



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of the respondents was held to be not a justifiable defence. Thus, merely because the illegal act could be attributed to a stranger is not enough to absolve the liability of the Board regarding the live wire lying on the road.

15. In W.B. SEB v. Sachin Banerjee [(1999) 9 SCC 21] the Electricity Board adopted a defence that electric lines were illegally hooked for pilferage purposes. This Court said that the Board cannot be held to be negligent on the said fact situation but the question of strict liability was not taken up in that case."

9. In view thereof, this appeal stands dismissed. No costs.

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Index : Yes / No

Speaking/non speaking order
dhk

To,

The II Additional District Judge,
II Additional District Court
Puducherry

N. SATHISH KUMAR, J.



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