



A.S.No.15 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :04.06.2025

Pronounced on :10.06.2025

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Appeal Suit No.15 of 2022

and

C.M.P.No.569 of 2022

The Superintending Engineer,
Tamil Nadu Electricity Board, T.N.E.B.,
Tiruvannamalai.

.. Appellant/Defendant

/versus/

1.Dhanasekaran, aged about 60 years,
S/o Chinnavathala Gounder

2.Murugan, aged about 40 years,
S/o Dhanasekaran

3.Rekha, aged about 27,
W/o (late) Palani

4.Minor Santhiya, aged about 7 years,
D/o (late) Palani



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5.Minor Sundariaruna, aged about 5 years,
D/o (late) Palani
Minors 4 & 5 are represented by this mother 3rd
respondent Rekha

6.Pachaiyappan, aged about 33 years,
S/o Dhanasekaran,
All are residing at Kollaikottai, Gengavaram Village,
Navapalayam Madura, Kalasapakkam Taluk,
Tiruvannamalai District.

.. Respondents/Plaintiffs

Appeal Suit has been filed under Section 96 of the Civil Procedure Code, 1908, praying to set aside the judgment and decree dated 07.02.2020 made in O.S.No.86 of 2018 on the file of the Principal District Judge, Tiruvannamalai.

For Appellant :Mrs.J.Hemalatha Gajapathy

For Respondents :Mr.A.G.F.Terry Chella Raja

JUDGMENT

This Appeal Suit has been filed against the judgment and decree dated 07.02.2020 made in O.S.No.86 of 2018 on the file of the Principal District Judge, Tiruvannamalai.



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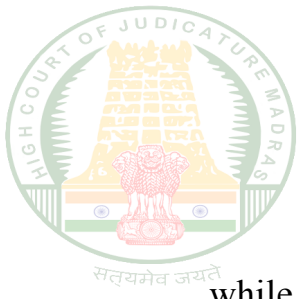
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2. The aggrieved defendant in O.S.No.86 of 2018 is the appellant.

Suit is for compensation from the Tamil Nadu Electricity Board (TNEB) for the death of Mrs.Amirtham, aged about 57 years, due to electrocution. Suit against the Superintendent Engineer, TNEB Tiruvannamalai, was filed by five plaintiffs, who are husband, widowed daughter-in-law, two sons and one grand-son, of the deceased Amirtham.

3. Brief facts leading to the appeal:

On 27.08.2017, the body of Amirtham, W/o Dhanasekaran, was found dead in the field of Krishnamoorthy Chettiar, Kollaikottai Village, Tiruvannamalai District. It was presumed that she died due to electrocution. However, the family members of Amirtham buried her without reporting the incident to the Police. After one month on 28.09.2017, complaint was given to Kadaladi Police Station and case in Crime No:299 of 2017 came to be registered. The body of Amirtham was exhumed and subjected to autopsy. Suit for recovery of damages of Rs.10 lakhs filed alleging that Amirtham,



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while she stepped on a live wire lying on the field of Krishnamoorthy, died due to electrocution.

4. The defendant filed written statement denying the allegations. The allegation of electrocution due to snapping of wire and passing of electrical current through it denied. It was affirmed by the defendant that the wire were well maintained and no fault on the Department. The cause for the death of Amirtham is not proved. The Police complaint given belatedly is an afterthought to make fortune out of a misfortune.

5. Based on the pleadings, the trial court has framed the following issues:

(1) Whether the plaintiffs are entitled to the relief of recovery of Rs.10,50,000/- as compensation as prayed for ?

(2) To what other relief ?



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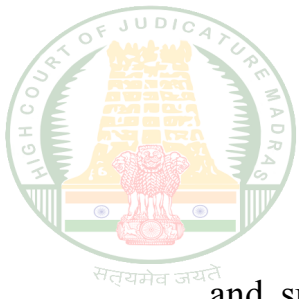
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6. On the side of the plaintiffs, the first and second plaintiffs were examined as PW-1 and PW-2. One Kamalakannan examined as PW-3. 7 documents were marked as plaintiffs side exhibits. On behalf of the defendant, Assistant Engineer, TNEB, was examined as DW-1. The Job allocation register marked as Ex.B-1.

7. The Trial Court, after considering the pleadings and evidence, allowed the suit by awarding compensation of Rs.9,36,400/- with 7.5% p.a interest which to be distributed in the ratio fixed in the decree.

8. Grounds of challenge:-

The judgement and decree dated 07.02.2020 is challenged by the sole defendant on the ground that the plaintiffs failed to prove that Amirtham died due to electrocution and it was due to the negligence of TNEB. Based on a belated FIR Ex.A-1, dated 28.09.2017 reporting the death of Amirtham on 26.08.2017 due to electrocution, the body of Amirtham was exhumed

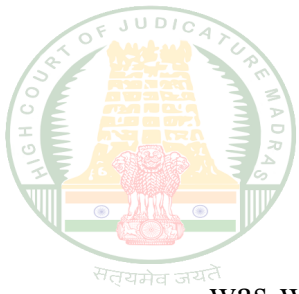


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and subjected to post mortem. The post mortem report Ex.A-2 does not establish that Amirtham died due to electrocution. Contrarily, the defendant had produced the duty allocation register Ex.B-1 to prove that on 28.09.2017 there was no complaint about snapping of electrical wire in that area. The Trial Court miserably failed to appreciate that the plaintiffs had not proved their case even by preponderance of probability. The plaintiffs failed to produce the fate of the belated FIR containing falsehood. In the FIR, the first plaintiff had stated that his wife Amirtham left the home on the previous day evening (i.e) 26.08.2017 and did not return home. On the next day (i.e.)27.08.2017 morning at 6.00 a.m, he came to know from Krishnamoorthy Chettiar that his wife lying dead due to electrocution.

9. The learned counsel for the appellant/TNEB submitted that the owner of the field Mr.Krishnamoorthy Chettiar, who alleged to have informed the first plaintiff, was not examined. Whereas, PW-3, a stranger had come to Court to depose that he witnessed the incident while he was passing through the field of Krishnamoorthy and the deceased Amirtham



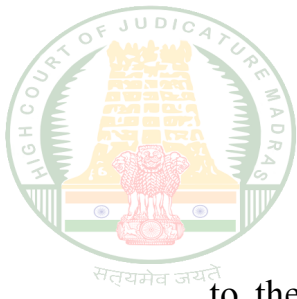
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was walking ahead of him. The total concocted and contradictory evidence been relied by the trial Court to fasten financial liability on a Public Sector Institution.

10. The Learned counsel for the appellant further submitted that the was belated complaint with concocted facts was registered and the body of Amirtham exhumed. However, the post-mortem report is not conclusive to indicate that Amirtham died due to electrocution. While so, the trial Court ought not to have allowed the suit. In any event, the fixation of compensation of Rs.9,36,400/- for the death of 57 years old lady, who was an agricultural collee is excessive and contrary to law.

11.The Learned Counsel for the respondents submitted that the trial Court has rightly appreciated the facts and ordered compensation. The plaintiffs being rustic villagers were not aware of the law. They buried the body of Amirtham as per their custom. Only on getting legal assistance, they lodged the complaint and then laid the suit after causing notice. According



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to the learned Counsel, the post mortem report Ex,A-2 was inconclusive since the body was found in decomposed state. The death of Amirtham was seen by PW-3 and he had testified before the Court to prove that the died due to electrocution.

12. Regarding the quantum of compensation, he submitted that the deceased was actively engaged in agricultural activities and earning Rs.15,000/-p.m. The Trial Court restricted her income to Rs.6000/- p.m.,and added 40% towards future prospects. The Court had applied multiplier 8 to arrive at a right and just compensation.

13. Point for consideration:

Whether the evidence placed by the plaintiffs is sufficient to prove that Amirtham died due to electrocution and the said electrocution was due to the negligence of the the defendant?



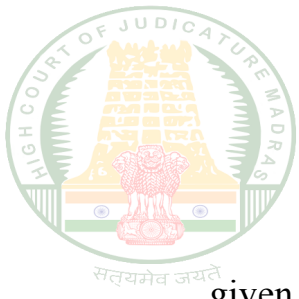
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14. Ex.A-1 is the FIR given by PW-1. In this FIR, he had specifically mentioned that Amirtham left the home on 26th evening by 7.00 p.m to her son Murugan house. She did not return home that night. The next day morning, Krishnamoorthy informed him that his wife found dead in his field due to electrocution.

15. It is a suit for compensation alleging negligence on the part of the Electricity Board. Therefore, a bald and belated allegation of electrocution, without any material evidence cannot be taken as proof to award compensation. Sympathy at the cost of public money is not fair and just.

16. According to first plaintiff, Amirtham left the home on 26.08.2017 at 7.00 p.m. Therefore, PW-3 could not have seen her walking ahead of him in Krishnamoorthy field on 27.08.2017 at 6.00 a.m. If he had really seen her alive at that time then the content of FIR is false. In any case, the plaintiffs had not reported the matter to the police immediately. He had



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given the complaint about the unnatural death of his wife one month. Later, on getting the postmorem report on 06.10.2017, he had caused notice Ex.A-3 dated 23.10.2017 and filed the suit seeking compensation. He had not produced any proof that Amirtham died unnaturally and that was due to electrocution. This fact is fundamental to fasten any liability on TNEB. This Court is constrained to go to the extent of saying, even assuming the cause of death was due to electrocution, the plaintiffs have to still discharge the burden of proving that the electrocution was due to the negligence of the Defendant/ TNEB.

17. It is positively asserted by DW-1 that when a live electrical wire running between two poles get snapped for any reason, the flow of electricity gets cut automatically. Further, Ex.B-1 the Job Register clearly proves that the lines were periodically maintained and no complaint received or rectified during the relevant date.



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18. In view of the above reasoning, this Court holds that, the Trial Court erred in allowing the suit without properly appreciating the evidence. Hence, the appeal is liable to be set aside.

19. Accordingly, Appeal Suit A.S.No.15 of 2022 is allowed. The appellant is permitted to get the refund of money deposited, if any, pursuant to the conditional order passed by this Court, while granting interim stay of the impugned decree.

20. In the result, ***this Appeal Suit is allowed. Consequentially, the Original Suit No.86 of 2018 is dismissed. Consequently, connected Miscellaneous Petition is closed.*** Considering the peculiar facts and circumstances, there no order as to costs.

10.06.2025



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Index:yes

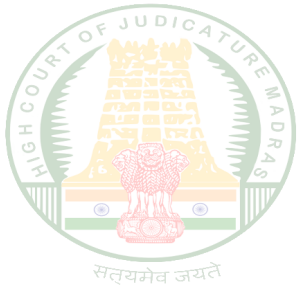
Speaking order/Non speaking order

Neutral citation:yes/no

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To:

The Principal District Court, Tiruvannamalai.



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Dr.G.JAYACHANDRAN,J.

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delivery judgment made in
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