



A.S.No.549 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
**DATED: 14.03.2025**

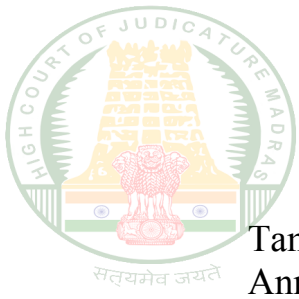
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**THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

**A.S.No.549 of 2022 and**  
**C.M.P.No.20532 of 2022**

1. Junior Engineer,  
Operation and Maintenance,  
Tamil Nadu Electricity Board,  
Gobi Electricity Distribution Circle,  
Anthiyur South, Anthiyur.
2. Assistant Executive Engineer,  
Operation and Maintenance,  
Tamil Nadu Electricity Board,  
Gobi Electricity Distribution Circle,  
Anthiyur Post, Erode District.
3. Executive Engineer,  
Operation and Maintenance,  
Tamil Nadu Electricity Board,  
Gobi Electricity Distribution Circle,  
Bhavani Post, Erode District.
4. Superintending Engineer,  
Tamil Nadu Electricity Board,  
Gobi Electricity Distribution Circle,  
Gobi Chettipalayam,  
Erode District.
5. Assistant Executive Engineer,  
Operation and Maintenance, Annamavdu,  
Anthiyur.
6. The Chairman,



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Tamil Nadu Electricity Board,  
Anna Salai, Chennai-600 002.

... Appellants/Defendants 4 to 9

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-VS-

1. Palanisamy
2. Maheswari
3. Veerappan
4. Sampathkumar
5. Periasamy
6. Padmanaban
7. Selvam

... Respondents/Plaintiffs

... Respondents/Defendants 1 to 3

8. The District Collector,  
Erode,  
Government of Tamil Nadu,  
Erode District.

... Respondent/10<sup>th</sup> Defendant

**Prayer:** Appeal Suit is filed under Section 96 of CPC r/w Order XLI & XLI-A of CPC to set aside the judgment and decree dated 24.03.2020 passed in in O.S.No.5 of 2018 (O.S.No.43 of 2018), District Court, Erode) on the file of the IV Additional District and Sessions Court at Bhavani.

|                |                                        |
|----------------|----------------------------------------|
| For Appellants | : Mrs.J.Hemalata Gajapathy             |
| For R1 to R4   | : Mr.R.Prabhakar                       |
| For R5 to R7   | : No Appearance (Court Notice refused) |
| For R8         | : Mrs.K.Asmini Devi                    |
|                | Addl. Govt. Pleader                    |

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## **J U D G M E N T**

Challenging the decree and judgment of the Trial Court, decreeing the suit for Rs.7,98,000/-, with a direction to the appellants / Tamil Nadu Electricity Board (TNEB) to pay 50% of the amount to the



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plaintiffs, the present appeal came to be filed by the TNEB.

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2. The case of the 1<sup>st</sup> plaintiff, who is the husband of the deceased Kanthammal is that his wife died due to electrocution and she was owning a flock of sheep, numbering 25 and earning Rs.10,000/- per month. While so, on 10.09.2017, due to the fall of a live electric wire on the iron gate put up by D1 to D3, she was electrocuted and died. It is further case of the plaintiffs that a case in Crime No.434 of 2017 on the file of Anthiyur Police Station was registered in this regard. Therefore, the plaintiffs sought compensation by filing a suit.

3. It is the contention of the defendants that due to heavy rain on 10.09.2017, an electric wire got snapped from the nearby post and according to them, it is only an act of God and there is no negligence on their part. Whereas, the plaintiffs took a stand that the accident took place on the negligence of D1 to D3, which has been refuted by them.

4. The Trial Court, on the basis of the aforesaid pleadings,



framed the following issues:

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i) Whether the defendants did not properly maintain the electric wire?

ii) Whether the defendants were negligent in maintaining the electric wire?

iii) Whether the electrocution was due to Act of God?

iv) Whether the plaintiffs are entitled to compensation? If so, what is the quantum?

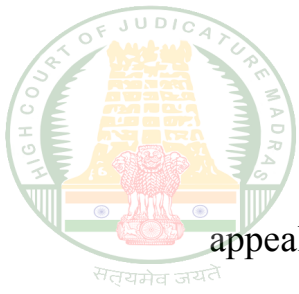
v) Who is liable to pay compensation?

vi) To what relief?

5. On the side of the plaintiffs, P.W.1 and P.W.2 were examined and Ex.A1 to Ex.A15 were marked. On the side of the defendants, D.W.1 to D.W.3 were examined and Ex.B1 to Ex.B5 were marked.

6. The Trial Court, on the basis of the evidence adduced by both sides, fixed the compensation of Rs.7,98,000/- and directed the defendants 1 to 3 and also TNEB / D4 to D7 to share the compensation of Rs.3,99,000/- each to be paid by them to the plaintiff either jointly or severally. The private respondents, namely, D1 to D3 have not filed any appeal and only TNEB / D4 to D6 filed the appeal.

7. In the light of the above, the points for consideration in this



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appeal are as follows:

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- i) Whether the appellants / TNEB were responsible for the death of the deceased on account improper maintenance of the electric wire?
- ii) Whether the plaintiffs are entitled for compensation as ordered by the Trial Court?

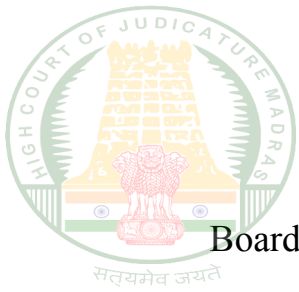
**POINTS:**

8. It is not in dispute that the wife of the 1<sup>st</sup> plaintiff and the mother of plaintiff 2 to 4, namely, Kanthammal died owing to electrocution on 10.09.2017 in the premises belonging to the defendants 1 to 3. Consequent to the mishap, a case in Crime No.434 of 2017 was registered under Section 174 of Cr.P.C. The factum of death due to Electrocution has been admitted on either side and a perusal of Postmortem Certificate marked as Ex.A2 clearly indicates that the death had occurred by electric shock. The only contention of the appellants / TNEB is that the entire act could be attributed only to the defendants 1 to 3, as they did not properly maintain the wires, which were connected to the junction box and a stand was also taken that the snap of wires in the house of D1 to D3 was on account of squirrel



9. In this regard, it is relevant to note that the Company or the Government Department supplying electricity is liable for payment of compensation in respect of acts relating to 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 snap of wires.

10. In the given case on hand, the breakage in wire will not happen on one fine morning and according to TNEB, there was a evidence of bites of wire by squirrel. It is incumbent on the authorities to conduct surprise inspection to ascertain the leakage of electricity in any of the areas falling under their respective jurisdiction and the electrocution would not have happened, if they had done their jobs with utmost care. It is relevant to point out that when a Board of Government Department is engaged in hazardous or dangerous activities and in that exercise of operation, harm is caused to any person, the rule of strict liability would come into play. Such



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Board of Government Department cannot escape from its liability.

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11. The Apex Court in the case of **Madhya Pradesh Electricity Board vs. Shail Kumari and others** reported in **2002 (2) SCC 162** 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



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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 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 vs. 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."



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12. For the foregoing discussions and in terms of the judgment

of the Supreme Court (supra), this Court is of the view that the decree and judgment of the Trial Court does not warrant any interference by this Court.

The points are answered accordingly and the Appeal Suit stands dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

**14.03.2025**

Index: Yes / No

Internet: Yes / No

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**To:**

1. The IV Additional District and Sessions Court  
Bhavani.
2. The District Collector,  
Erode District.
3. The Section Officer,  
V.R.Section,  
High Court,  
Madras.

**N.SATHISH KUMAR,J.,**

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