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A.S.No.392 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

A.S.No.392 of 2024

and

C.M.P.No.11722 of 2024

- 1.The Superintending Engineer (TNEB),
Tamil Nadu Generation Distribution Corporation Ltd.,
(TANGEDCO),
Capper Malai,
Cuddalore.
- 2.The Executive Engineer (Operation & Maintenance),
Tamil Nadu Generation Distribution Corporation Ltd.,
(TANGEDCO),
Kurinjiyadi and Taluk.
- 3.The Assistant Executive Engineer,
Tamil Nadu Generation Distribution Corporation Ltd.,
(TANGEDCO),
Kullanchavadi and Taluk.
- 4.The Assistant Engineer,
Tamil Nadu Generation Distribution Corporation Ltd.,
(TANGEDCO),
Kullanchavadi Rural area. ...Appellants/Defendants

Versus

- 1.M.Dhanalakshmi
- 2.M.Sundarapandiyan
- 3.M.Muralidharan
- 4.M.Shalini
- 5.R.Sangammal ...Respondents/Plaintiffs

Appeal Suit filed under Section 96 of CPC, against the Judgment and Decree dated 31.01.2024 made in O.S.No.325 of 2021 (P.O.P.No.12 of 2020)



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on the file of the learned Principal District Judge, Cuddalore.

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For Appellants : M/s.J.Hemalatha Gajapathy
For Respondents : M/s.M.Malar

J U D G M E N T

This Appeal has been preferred by the Defendants in O.S.No.325 of 2021 against the judgment and decree of the learned Principal District Judge, Cuddalore made in O.S.No.325 of 2021, dated 31.01.2024.

2. For the sake of convenience, the parties are referred to as Plaintiffs and Defendants as referred in the suit.

3. **The averments in the plaint filed by the Plaintiff are as follows:-**

3.1. The Plaintiffs in O.S.No.325 of 2021 are the wife, sons, daughter and mother of the deceased Murugan. On the date of death, 08.06.2018, Murugan was aged 48 years. He was a small farmer working as daily wage labourer in farms and working in his own farm. On 08.06.2018, in the morning by 5.30 a.m., Murugan was proceeding towards the field that he had taken up for cultivation on lease at Samattikuppam. He was proceeding from West to East near the channel where the overhead electric wire snapped and fell in the



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channel. Murugan who was walking near the channel stepped on to the wire in the channel and he was thrown out. Hearing his cries, neighbours came to his rescue and took him to the hospital. In the hospital, the Doctors who examined him declared that he was “brought dead”. The loss of life of Murugan was due to the snapping of the overhead electric wire near the channel. Therefore, the Defendants/TANGEDCO are responsible for poor maintenance of the overhead electric line. Murugan was earning through agricultural labour and through his own farm activities @ Rs.15,000/- per month. He was hale and healthy till his death. If it were not for his unnatural death, he would have lived long. The Plaintiffs are suffering due to the loss of the breadwinner. The Plaintiffs have lost their companion. They have lost love and affection of a husband, father and son. The 1st Plaintiff had lost her love, companion and affection of her husband Murugan. Plaintiffs 2 to 4 had lost their love and affection of their father. The 5th Plaintiff has lost love and affection and care of her dear son. Therefore, the Plaintiffs seek compensation of Rs.15 lakhs and hold the Defendants vicariously liable for the death of Murugan.

4. The written statement filed by the 4th Defendant and adopted by the other Defendants are briefly as follows:

4.1. The suit filed by the Plaintiffs seeking compensation from TANGEDCO is not maintainable. The claim of the Plaintiffs that overhead

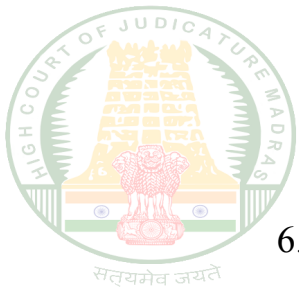


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electric wire snapped due to poor maintenance is stoutly denied. The Fatal Accidents Act is not applicable to the Plaintiffs case. For argument sake, if the Plaintiffs' claim is to be considered that the overhead electric wire snapped, then it would automatically lose electric charge. Therefore, the case of the Plaintiffs claiming electrocution is unacceptable. The overhead electric wires have a life time of 25 years. Therefore, the claim of the Plaintiffs that the overhead electric wire snapped is unacceptable. The staff of the Defendants had been maintaining the overhead electric wire properly. The case registered by the Kullanchavadi Police based on the complaint of the 1st Plaintiff was closed as mistake of fact. Therefore, the Plaintiffs cannot seek compensation against the Defendants. This suit has no merits. Hence, the Defendants seek dismissal of the suit as not maintainable. The Plaintiffs had not impleaded the persons in whose field he suffered electrocution as proper and necessary parties, without impleading them the suit is not maintainable.

5. Based on the pleadings of the Plaintiffs and the Defendants, the learned Principal District Judge, Cuddalore, had framed the following issues:

1. Whether the Plaintiffs are entitled to the claim of compensation?
2. Whether the suit is barred for non joinder of necessary parties?
3. To what relief the Plaintiffs are entitled?



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6. During trial, the widow of Murugan, M.Dhanalakshmi, examined herself as P.W-1, she had filed affidavit as examination-in-chief of P.W-1 and through her evidence, documents were marked as Ex.A-1 to Ex.A-5. Ex.A-1 is the First Information Report in Cr.No.137 of 2018 registered based on the complaint of the 1st Plaintiff. Ex.A-2 is the death certificate of the deceased, Murugan, husband of the 1st Plaintiff dated 08.06.2018. Ex.A-3 is the legal notice issued on behalf of the Plaintiffs to the Defendants dated 10.08.2019. Ex.A-4 is the legal heir certificate issued in favour of the Plaintiffs by the Tahsildar. Ex.A-5 is the postmortem report of the deceased, Murugan. One Venkadesh was examined as P.W-2 in support of the claim of the Plaintiffs regarding death of her husband due to electrocution.

7. Mr.Arivazhagan, the Assistant Engineer of TANGEDCO who is the fourth Defendant in the suit had examined himself as D.W-1. The affidavit filed by the 4th Defendant as D.W-1 had stated the facts stated in the written statement filed by the 4th Defendant. He was cross-examined on behalf of the Plaintiffs. The suggestions put to D.W-1 was denied by him in the cross-examination particularly regarding poor maintenance of the overhead electric lines. The suggestions that the Defendants are liable to pay compensation was also denied by him during cross examination.



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On appreciation of evidence, the learned Principal District Judge, Cuddalore, by judgment dated 31.01.2024 in O.S.No.325 of 2021 decreed the suit of the Plaintiffs thereby granting compensation of Rs.10 lakhs along with 6% interest from the date of the suit till the date of judgment and decree and 6% interest from the date of decree till the date of realization.

9. Aggrieved, the Defendants have filed this Appeal seeking to set aside the Judgment and Decree dated 31.01.2024 made in O.S.No.325 of 2021 (P.O.P.No.12 of 2020) by the learned Principal District Judge, Cuddalore.

10. The learned Counsel for the Appellants invited the attention of this Court to the written statement of the Defendants in the suit, which are as follows:

- a) The accident happened in the private land. The electrocution was said to have happened due to the snatched electric wire from the electric motor kept in the land owned by the said Ramamoorthy, without noticing that, the deceased Murugan had stepped on that snatched wire.
- b) The FIR was closed as action dropped since the TANGEDCO is not responsible for the snatched wire from the electric motor kept in the land owned by Ramamoorthy, son of Ramalingam which was clearly mentioned in the FIR. Hence the Appellants/Defendants are not responsible for the incident happened on 08.06.2018 and they



have not received any complaints regarding the snatched wire from the electric motor from the owner of the land or from any one.

11. The learned Counsel for the Appellants invited the attention of this Court to the cross-examination of P.W-1 and P.W-2 which are extracted as under:

Cross-examination of P.W-1 – Dhanalakshmi

மின்கம்பி அறுந்து கிடந்த இடம் சரவணன்
நிலமாகும். பக்கத்தில் இருந்து மோட்டாருக்கு தான்
அந்த லைன்போனது. அந்த மோட்டார்
ராமலிங்கத்துக்கு சொந்தம்.

Cross-examination of P.W-2 – Venkatesan

கரண்ட் லைனில் ஓயர் கீழே கிடந்தது. அலறல் சத்தம்
கேட்ட பிற்பாடுதான் நான் போய் பார்த்தேன். இன்னொரு
வெங்கடேசன், த/பெ வடிவேலு என்பவரும் பார்த்தார். அது
ராமமூர்த்தி என்பவர் மோட்டாருக்கு போகும் ஓயர் ஆகும்.

12. On the side of the Defendants one Arivazhagan was examined as D.W-1 and documents were marked as Ex.B-1 and Ex.B-2. Based on the evidence, the trial Court had passed a decree and judgment by directing the Defendants to pay compensation of Rs.10,00,000/- to the Plaintiffs at the rate of 6% per annum from the date of pauper original petition till the date of depositing of entire amount.



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13. The learned Counsel for the Appellants submitted that the Trial Court had not considered the fact that on the date of the occurrence it was raining and the wire that was disconnected and snapped from the Motor belonged to one Ramalingam on the private land which belonged to Saravanan. Further, the Trial Court ought to have dismissed the suit based on the evidence deposed by P.W-2. The Trial Court had considered the monthly income of the deceased on the higher side when there was no evidence produced by the claimants. The learned Counsel for the Appellants invited the attention of this Court regarding the income of the victim in the chief examination of P.W-1 which reads as under:

Chief-examination of P.W-1:

சரவணனிடம் நாங்கள் குத்தகை எடுத்துள்ளோம்.
குத்தகை எடுத்ததற்கு ஆவணங்கள் போடவில்லை. என் கணவர்
கூலி வேலை செய்வார். மாதம் ரூ சம்பாதிப்பார்.

He further submitted that the Trial Court ought to have held that the Appellants/Defendants are not liable to pay the compensation.

14. In support of the contention, the learned Counsel for the Appellants relied on the following rulings:

14.1. The Hon'ble Supreme Court in the reported decision in **2002 (1) SCR 164 (M.P. Electricity Board Vs. Shail Kumari and Ors. in Appeal (Civil) 180 of 2002** had held as follows:-



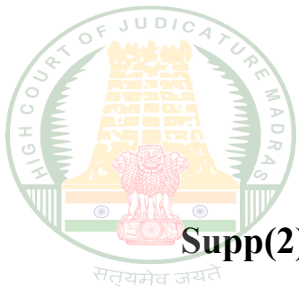
“Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability, i.e., 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 neg' 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.”

14.2. The Hon'ble Supreme Court in the case of S.D.O.Grid Corporation of Orissa Limited & Ors. Vs. Timudu Oram in Appeal (Civil)

No.1726 of 1999 had held as follows:-

“In Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) and others (supra) with which case these appeals were listed for hearing but could not be heard for want of service this Court took the view that the High Court committed an error in entertaining the writ petitions under Article 226 of the Constitution of India and were not fit cases for exercising the jurisdiction under Article 226 of the Constitution of India. It was held that actions in tort and negligence were required to be established initially by the claimants. The mere fact that the wire of electric transmission line belonging to the Appellant had snapped and the deceased had come into contact with it and died by itself was not sufficient for awarding compensation. The Court was required to examine as to whether the wire had snapped as a result of any negligence on the part of the Appellants, as a result of which the deceased had come in contact with the wire. In view of the defence raised and the denial by the Appellants in each of the cases, the Appellants deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission line and yet the wires had snapped because of the circumstances beyond their control or unauthorised intervention of third parties. Such disputed questions of fact could not be decided in exercise of jurisdiction under Article 226 of the Constitution of India. That the High Court could not come to the conclusion that the defence raised by the Appellants had been raised only for the sake of it and there was no substance in it.”

14.3. The Hon'ble Supreme Court in the decision reported in 1999



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Supp(2) SCR 458 (Chairman Grid Corporation of Orissa Ltd. (GRIDCO)

& Ors. Vs. Smt.Sukamani Das and Another Etc) in Appeal (Civil) No.

5074 of 1999 had held as follows:-

“In this batch of 10 appeals the question which arises for consideration is whether the High Court was justified in exercising its power under Article 226 of the Constitution and awarding compensation to the writ petitioners even though the Appellants who were the Respondents in the said writ petitions had denied their liability on the ground that the deaths had not occurred as a result of their negligence, but because of an act of God or of acts of some other persons.”

15. Relying on the above rulings, the learned Counsel for the Appellants sought dismissal of the suit and sought to allow this Appeal and set aside the judgment and decree passed by the learned Principal District Judge, Nagapattinam.

16. The learned Counsel for the Respondents vehemently objected to the submission of the learned Counsel for the Appellants/TANGEDCO stating that as per FIR under Ex.A-1 and Postmortem Certificate under E.A-5, the deceased Murugan died of electrocution. The reason for the sudden death of an ordinary healthy individual aged 48 years is shocking. If the Appellants were responsible and careful, they would have maintained the electric lines properly considering the safety of the general public in times of natural weather conditions particularly strong winds and rain this unfortunate incident could have been averted. The learned Counsel for the Respondents invited the attention of this Court to the discussion of evidence by the learned Principal



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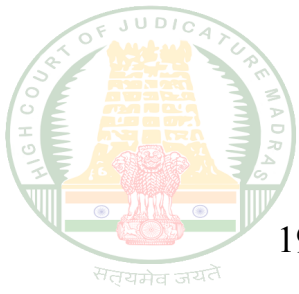
District Judge in his judgment. She submitted that the judgment of the learned trial Judge is on proper appreciation of evidence and on strong reasoning. It does not warrant interference by this Court. This Appeal is filed by the Defendants in the suit only to delay the execution of the decree by the Plaintiffs/Decree Holders. This Appeal lacks merit and is to be dismissed as not maintainable. This Appeal has to be dismissed and the judgment and decree dated 31.01.2024 passed in O.S.No.325 of 2021 by the learned Principal District Judge, Cuddalore is to be confirmed.

Point for Determination:

Whether the judgment of the learned Principal District Judge, Cuddalore in O.S.No.325 of 2021 dated 31.01.2024 is perverse warranting interference by this Court?

17. Heard the learned Counsels for the Appellants M/s. J.Hemalatha Gajapathy and the learned Counsel for the Respondents M/s. M.Malar.

18. Perused the materials available on record in O.S.No.325 of 2021, the rulings cited in support of the arguments of the learned Counsel for the Appellants and the Judgment and Decree dated 31.01.2024 passed in O.S.No.325 of 2021 (P.O.P.No.12 of 2020) by the learned Principal District Judge, Cuddalore.



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19. In the case at hand, Ex.A-1 is the FIR filed by the 1st Plaintiff by giving a complaint to Kullanchavadi Police Station reporting the death of her husband, Murugan. Murugan was aged about 48 years. The postmortem report indicates that the deceased died due to electrocution.

20. The contention of the Appellants/Defendants before this Court that they are not liable as per the Electricity Act is not acceptable. The contention of the learned Counsel for the Appellants that the learned Principal District Judge, Cuddalore, had adopted the principles in Motor Vehicles Act for determining the compensation which is perverse, also cannot be accepted. The claim of the Appellants (Defendants before the Trial Court) that the fatal accidents case is not applicable to the cases involving Electricity Board TANGEDCO is not acceptable.

21. It is to be noted that an ordinary villager, who eke out his livelihood by cultivating lands on lease and engaged as agricultural labourer to maintain his family, had died on stepping on the snapped wire inadvertently. It is admitted by the 1st Defendant in the cross-examination that on the previous night, there was light showers and strong wind. That indicates that the overhead wire had snapped and fell on the ground. The claim that if the overheard wire snaps and fall on the ground it loses electrical energy, cannot



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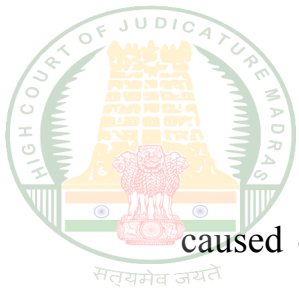
be accepted in the facts of this case. There is clear evidence through P.W-2,

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22. The FIR under Ex.A-1 at the earliest point of time preferred by the wife, P.W-1, 1st Plaintiff is clear regarding the nature of the death, and the cause of death of her husband. The postmortem report under Ex.A-5 indicates that he died due to shock.

23. On assessment of evidence, the learned Principal District Judge, Cuddalore, had arrived at a conclusion that the deceased died due to electrocution. The judgment of the learned Principal District Judge, Cuddalore, is based on strong reasoning.

24. The contention of the Defendants that the Police had dropped action and that therefore, filing a civil case seeking compensation against the Defendants is not maintainable also was rejected by the learned Principal District Judge, Cuddalore, since the case is registered under Section 174 of Cr.P.C., indicating that the cause of death is not known. Subsequently, after investigation, based on postmortem report, it was found that the death was

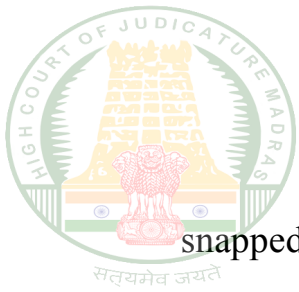


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caused due to electrocution. The Investigating Officer was unable to fix the responsibility on a particular individual who was responsible for the death of the deceased, Murugan. Therefore, they had dropped further action. However, that does not indicate that the Defendants are not liable. The Defendants are answerable for the death of the innocent villager, who inadvertently stepped on the snapped electric wire on the ground. The claim of the Defendants that the owner of the land where the deceased person was walking was not impleaded as a necessary party as the overhead electric line was linked to the motor pump set of the well belonging to the land owner will not help the Defendants to wriggle out from the case for the death caused due to electrocution [Electricity Board] TANGEDCO is liable.

25. The rulings relied on by the learned Counsel for the Appellants reported in **2002 (1) SCR 164 (M.P. Electricity Board Vs. Shail Kumari and Ors. in Appeal (Civil) 180 of 2002**, will not help the case of the Appellants (Defendants 4 and 5 before the Trial Court). In the reported decision, the facts of the case was different. In the reported decision, the Plaintiff before the Trial Court was the widow of the deceased. As per the case of the Plaintiff in the reported decision, her husband was riding cycle and the cycle was driven over the snapped wire lying on the road. When the cycle came in contact with the



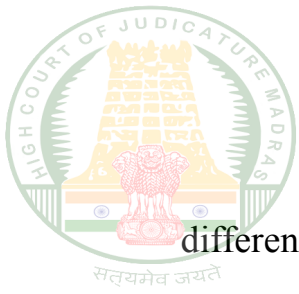
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snapped wire on the road, the cyclist was thrown out due to electrocution and consequently died. It is the case of the M.P. Electricity Board before the Trial Court that the electric line did not snap due to improper maintenance, but the line was drawn by pilferers to pilfer the electricity for their own industrial purposes. The cyclist, without noticing the snapped wire, ran over it. The claim of the M.P. Electricity Board was dismissed by the Hon'ble Supreme Court.

26. The rulings relied on by the learned Counsel for the Appellants reported in **S.D.O.Grid Corporation of Orissa Limited & Ors. Vs. Timudu Oram in Appeal (Civil) 1726 of 1999**, also will not help the case of the Appellants as the Hon'ble Supreme Court held that compensation cannot be granted by the High Court in cases involving death due to electrocution, by exercising inherent power of the High Court under Article 226 of the Constitution of India.

27. The ratio of the Hon'ble Supreme Court reported in **1999 Supp(2) SCR 458 (Chairman Grid Corporation of Orissa Ltd. (GRIDCO) & Ors. Vs. Smt.Sukamani Das and Another Etc) in Appeal (Civil) 5074 of 1999**, also will not help the case of the Appellants as the facts of the above case is



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different from the facts of this case. In this case also, the Hon'ble Supreme Court held that the High Courts cannot grant compensation exercising Writ jurisdiction under Article 226 of the Constitution of India. Here, the compensation was granted by the learned District Judge after recording evidence in the suit filed by the legal heirs of the deceased as Plaintiffs seeking compensation. For electrocution, Electricity Board is liable. The contents of the written statement cannot at all be accepted by any Court of law. It is of common knowledge that persons/general public have repeatedly complained against the electricity board for lack of maintenance. Judges as members of the public can also observe this on their daily trips. The electric poles and the electric lines in the streets as well as places across the street when there is storm strong electric lines are switched off as a precautionary measure. It is well reasoned and good. At the same time, it is the duty of the TANGEDCO to maintain the post as well as electric lines in such a manner that on normal times due to action of wind and rain, the lines are not snatched. It is for the TANGEDCO to explain how a healthy man aged 48 years died suddenly. Ex.A-5 Postmortem report clearly indicates he died due to shock. Therefore, the reasoning by the learned Principal District Judge Cuddalore, decreeing the suit and granting compensation is found well reasoned judgment. Therefore, the argument put forth by the learned Counsel for the Appellants/TANGEDCO



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that the judgment of the learned Principal District Judge, Cuddalore in O.S.No.325 of 2021, dated 31.01.2024 is erroneous cannot at all be accepted.

The arguments of the learned Counsel for the Appellants/TANGEDCO that the TANGEDCO is not liable to pay compensation based on the rulings cannot at all be accepted. The rulings cited by the learned Counsel for the Appellants in (i) **2002 (1) SCR 164 (M.P. Electricity Board Vs. Shail Kumari and Ors.)**; (ii) **S.D.O.Grid Corporation of Orissa Limited & Ors. Vs. Timudu Oram in Appeal (Civil) 1726 of 1999** and (iii) **1999 Supp(2) SCR 458 (Chairman Grid Corporation of Orissa Ltd. (GRIDCO) & Ors. Vs. Smt.Sukamani Das and Another Etc) in Appeal (Civil) 5074 of 1999** will not help the Appellants. If the Engineers of the TANGEDCO had taken effective steps before the rainy season to protect the overhead electric line from snapping due to vagaries of nature. After having taken such measures if some unfortunate incident takes place then they can take the defence that they are not liable. Here it is not so. As common citizens of this country as Judges also as members of the public observe the electric lines running in their neighbourhood. From the observation, one can find that there is negligence in the officials of the TANGEDCO resulting in loss of precious life for which they are indifferent. Therefore, the claim that they are not liable cannot at all be accepted in the present circumstances prevailing in this country due to

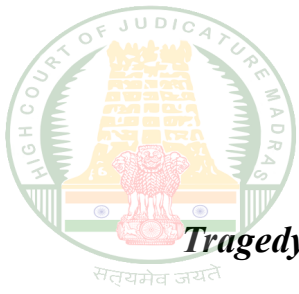


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callous indifference of the officials of the TANGEDCO. Therefore, the judgment of the learned Principal District Judge granting compensation to the dependants of the deceased Murugan, the loss of the breadwinner of the family, is found reasonable.

28. In the reported decision in **2003 (68) DRJ 128 (DB)** in the case of ***Association of Victims of Uphaar Tragedy and Others vs. Union of India and Others***, the Division Bench of the Hon'ble Delhi Court by following the principles of Motor Vehicles Accident Compensation cases had awarded compensation to each of victims of fire accident who suffered burns, for each of the individuals whose dependants died in the fire accident. The arguments of the learned Counsel for the Appellants that the learned trial Judge had erred in calculating the compensation based on the principles under the Motor Vehicle Act in which accident victims are granted compensation. The said submission of the learned Counsel for the Appellants (Defendants before the trial Court)/TANGEDCO cannot at all be accepted as the Uphaar Tragedy victims were compensated by the Hon'ble High Court of Delhi based on the principles awarding compensation under the Motor Vehicles Act even though it was not a Motor Accident. The decision of the Hon'ble High Court of Delhi in **2003 (68) DRJ 128 (DB)** in the case of ***Association of Victims of Uphaar***



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Tragedy and Others vs. Union of India and Others, was upheld by the Hon'ble Supreme Court in the case of **Municipal Corporation of Delhi vs. Uphaar Tragedy Victims Association and others** reported in (2011) 14 SCC 481.

29. In the light of the above discussion from paragraphs 17 to 28, **the Point for determination is answered in favour of the Plaintiffs and against the Defendants.** The judgment of the learned Principal District Judge, Cuddalore in O.S.No.325 of 2021, dated 31.01.2024 is found proper which does not warrant any interference by this Court.

In the result, the **Appeal Suit stands dismissed with costs throughout.** The Judgment and Decree dated 31.01.2024 made in O.S.No.325 of 2021 (P.O.P.No.12 of 2020) by the learned Principal District Judge, Cuddalore, is confirmed. Consequently, connected Miscellaneous Petition is closed.

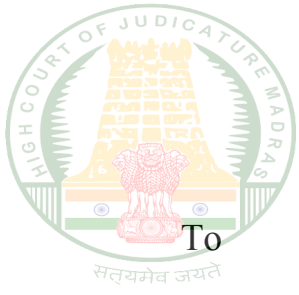
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Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No



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1. The Principal District Judge, Cuddalore.

2. The Section Officer,
VR Section, High Court,
Chennai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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