



A.S.No.68 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

A.S.No. 68 of 2022

and

C.M.P.No.17240 of 2023

1. The Assistant Engineer
Tamil Nadu Generation and
Distribution Corporation Limited,
Having his office at Pathirikuppam,
Cuddalore 607 002.

2. The Superintending Engineer
Tamil Nadu Generation and
Distribution, Corporation Limited,
Having office at Capper Quarry,
Cuddalore 607 004.

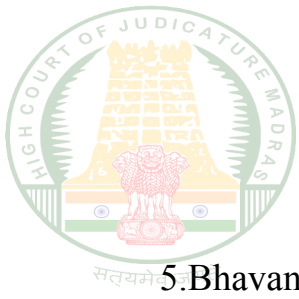
.....Appellants / Defendants

-Versus-

1. S.Kalaiyarasi
- 2.Minor S.Rajapriyan
- 3.Minor Priyadharshini,
- 4.Minor Dhivyadharshini

[Minor Respondents 2 to 4 are
represented by their Guardian and
Next Friend Mother, the 1st

<https://www.mhc.tn.gov.in/gstps> respondent - S.Kalaiyarasi]



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.....Respondents / Plaintiffs

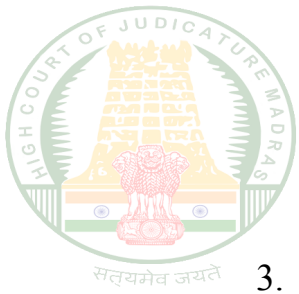
Appeal filed under Section 96 of the Code of Civil Procedure read with Order XLI, Rule 41A of the Code of Civil Procedure, praying to set aside the judgement and decree dated 16.12.2019 passed in O.S.No.217 of 2018 on the file of the principal District Judge at Cuddalore

For Appellants : Mrs.J.Hemalatha
For Respondents : Ms.S.Nazira Banu for
Mrs.Ramya V.Rao for RR1 to 5

JUDGEMENT

This appeal suit is preferred by the Tamil Nadu General and Distribution Corporation Limited at Cuddalore challenging the judgement and decree dated 16.12.2019 passed by the learned Principal District Judge at Cuddalore in O.S.No.217 of 2018 granting a compensation of Rs.8,80,000/- in a case of electrocution of one Siva of Vandipalayam in Cuddalore District.

2. The respondents are the plaintiffs and the appellants are the defendants in O.S.No.217 of 2018. The 1st respondent/1st plaintiff is the wife, respondents 2 to 4/plaintiffs 2 to 4 are the minor son and daughters of the deceased and the 5th respondent/5th plaintiff is the mother of the deceased Siva.



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3. For the sake of convenience, the parties in the appeal suit will hereinafter be referred to as per their array before the trial court.

4. The case of the plaintiffs in brief is as follows:

(i) On July 28, 2017, at approximately 06.00 p.m., the deceased Siva was riding his motorcycle bearing Regn. No. TN-31-BE-2599 from East to West along with a pillion rider named Dheivalakshmi at a moderate speed. During that time, heavy wind and rain damaged an electric post, causing a live wire to snap off and fall onto the main road. The deceased Siva who was riding a motorcycle on M.Pudur Main Road, opposite Sri Vinayaga Tyre Works, when came into contact with a live wire that was lying across the road, was electrocuted and fell unconscious on the spot. He was immediately rushed to Mahatma Gandhi Medical College and Hospital in Puducherry, where the doctor examined him and declared him “brought dead”. Thereafter, his body was shifted to the Government Head Quarters Hospital in Cuddalore for post-mortem before being shifted back to his home for the funeral rites. The pillion rider, Dheivalakshmi, and another person named Sridhar were also hurt as a



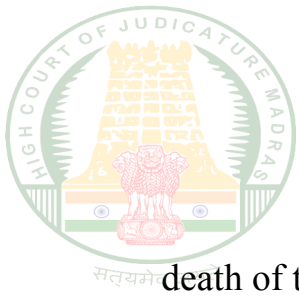
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result of the electric shock. A complaint was filed with Thirupapuliur Police
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Station, and an FIR was recorded under Crime No. 457 of 2017.

(ii) The officials at TANGEDCO were completely negligent, leading to the tragedy. Keeping public safety in mind, the officials in charge should have inspected the areas where electrical posts and lines were built on a regular basis, repaired any problems that arose, and so properly maintained the posts and electric lines/wires. However, they miserably failed in carrying out their duties and responsibilities, resulting in the death of the deceased Siva. The snapping off an electric wire is a clear evidence of faulty maintenance of electrical wire. As a result of their negligence, the defendants must bear responsibility for Siva's death.

(iii) The deceased Siva was a Mason who earned Rs.750/- per day. He was approximately 36 years old at the time of electrocution. The plaintiffs are, wife, children and mother of the deceased Siva. They are the lawful heirs and dependants of the deceased Siva, who passed away and the said Siva was the family's sole breadwinner. The plaintiffs are deeply saddened by the irreversible



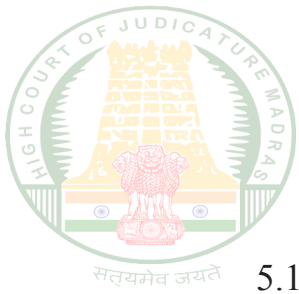
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death of the deceased, Siva whose sudden demise left them in a permanent lurch and deprived them of all of his income. They have been struggling greatly, with the first plaintiff, who was the deceased's wife, suffering from a loss of consortium and the other plaintiffs from the loss of love and affection.

(iv) They have spent a huge amount on his death, ambulance charges and funeral expenses. The plaintiffs have issued a legal notice dated 31.10.2018 to the defendants seeking compensation of Rs.12,00,000/- for the death of Siva, but they have not paid any compensation the plaintiffs. The plaintiffs estimated the compensation payable at Rs.12,00,000/- for the loss of estate, loss of income and future prospects, loss of love and affection to the plaintiffs, ambulance expenses, transport charge, funeral expenses and shock and agony.

(v) The electrocution happened within the jurisdiction of the 1st defendant and the 2nd defendant is the District Head of the TANGEDCO. Hence, all the defendants are jointly and severally liable to pay compensation as estimated above to the plaintiffs.



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5.1 The case of the defendants is that the suit is not maintainable in law and on facts. It is denied that due to the failure to maintain the electrical wire in good condition caused the death of the deceased Siva. The defendants would submit that the defendants are discharging their duties and responsibilities with great care by inspecting the spot. There was no complaint received from the place of occurrence that the electrical wire was not properly maintained. Electrical cables have an automatic power cut-off system, ensuring that even if a damaged wire falls down, the power supply will shut off immediately.

5.2 The plaint did not mention the negligence on the part of the defendants as a cause of the accident. There is no connection between the defendants and the death of the deceased Siva. According to the complaint, the accident was caused by the deceased Siva's negligence in not spotting an electrical wire in the middle of the road without electricity. In the postmortem certificate, the doctor also said that the deceased died as a result of injuries sustained on the neck, rather than electrocution. As a result, the defendants are



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not liable for Siva's death, and the plaintiffs are therefore not entitled to
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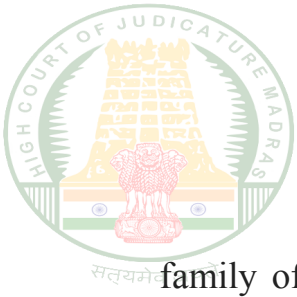
compensation, and the suit is liable to be dismissed.

6. Based on the above pleadings, the following issues were framed for trial by the trial court:

1. Whether the plaintiffs are entitled for a sum of Rs.12,00,000/- as compensation for the death of Siva by electrocution?

2. To what reliefs the plaintiffs are entitled?

7. During the trial, on the side of the plaintiffs, the 1st plaintiff examined herself as P.W.1 and in support of her case, one Sridhar and Dr.Sudhakar were examined as P.W.2 and P.W.3 and Ex.A.1 to Ex.A.5 were marked. On the side of the defendants, one Dharman, Junior Engineer, TNEB, Pathirikuppam, Cuddalore was examined as D.W.1, however no document was marked on the side of the defendants. The trial court, after analyzing all the evidence available on record, found that the defendants were negligent in not maintaining the electrical wire properly and therefore, applying the rule of strict liability, directed the defendants to pay a sum of Rs. 8,80,000/- as compensation to the



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family of the deceased Siva with interest @ 6% per annum from the date of
plaint till the date of payment in full. Challenging the decree granting
compensation with interest to the plaintiffs, the defendants are before this court
with the present appeal suit.

8. Heard Mrs.J.Hemalatha, learned counsel for the appellants/defendants
and Ms.S.Nazira Banu for Mrs.Ramya V.Rao, learned counsel on record for the
respondents/plaintiffs.

9.1 The learned counsel for the defendants would submit that there was
no evidence to establish that the death was solely caused by electrocution.
According to her, the oral testimony of the doctor who performed the post-
mortem and issued the post-mortem certificate did not establish that deceased
died due to electrocution. According to P.W.3, the doctor who conducted the
post-mortem, the deceased did not have any other injuries except for an abrasion
on his neck. Thus, the learned counsel would submit that the trial court erred in
coming to the conclusion that the deceased died as a result of electrocution due



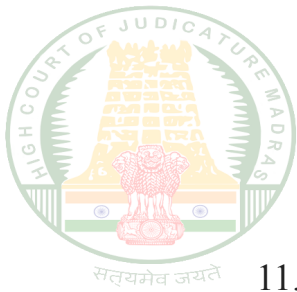
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to the defendants' negligence in failing to properly maintain the live electrical wire.

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9.2 Without prejudice to her above submissions regarding negligence attributed on the part of the defendants, the learned counsel for the appellants/defendants would submit that the trial court erred in adopting the multiplier method to determine a just compensation and went beyond its authority in awarding compensation for loss of estate, loss of consortium, and funeral costs, all of which cannot be ordered in a suit for damages.

10. Per contra, the learned counsel for the plaintiffs would contend that D.W.1, in his evidence, clearly admitted that on the date of the tragic incident, an electrical post got damaged due to heavy wind and rain; as a result, the live wire got snapped off, and the same was lying on the road. This by itself is sufficient to conclude that there was negligence on the part of the TANGEDCO in not maintaining the live electrical wire properly which resulted in the death of the deceased Siva by electrocution.



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11. Considering the rival submissions, now the points that arise for consideration in this appeal suit are:

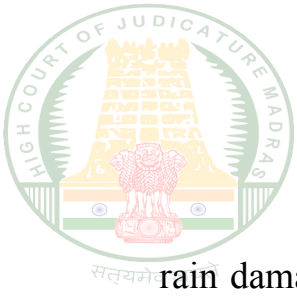
1. Whether appellants/defendants were negligent in not maintaining the electrical wire properly?
2. Was the accident due to the rash and negligent act of the deceased Siva?
3. Whether the appellants/defendants are liable to compensate the family of the deceased-Siva under strict liability?

12. I have considered the rival submissions and the available records carefully.

Point Nos.1 and 2:

13.1 It is not in dispute that the accident was occurred on 28.07.2017 at 06.00 p.m. when the deceased was returning home after his mason work on his motor cycle bearing Regn. TN 31-BE-2599 on M.Pudur Main Road from East to West keeping Dheivalakshmi as pillion rider.

13.2 It is the case of the plaintiffs that during that time, heavy wind and



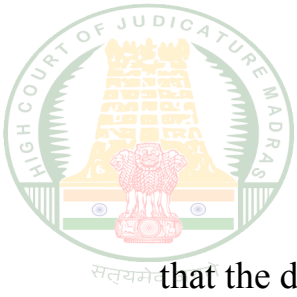
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rain damaged an electric post, causing a live wire to snap off and fall onto the main road and the deceased Siva, who was riding a motorcycle on M.Pudur Main Road, opposite Sri Vinayaga Tyre Works, when came into contact with a live wire that was lying across the road, was electrocuted and fell unconscious on the spot.

14. On the other hand, the defendants denied the allegations that the deceased Siva died due to electrocution and the defendants were negligent in not maintaining the live electrical wire properly. According to them, there was no complaint received regarding any electrical wire snapping. The stand of the defendants is that the electrical wires have automatic power cut off device and as such, if the damaged electrical wire fell, the power supply would cut off automatically. The learned Principal District Judge upon considering the available records proceeded to award compensation applying the principle of strict liability, which means that TANGEDCO is liable even if they were not negligent, as long as the injury or death occurred due to the electricity supply.

Here, the defendants' case is that the medical evidence has not proved the fact



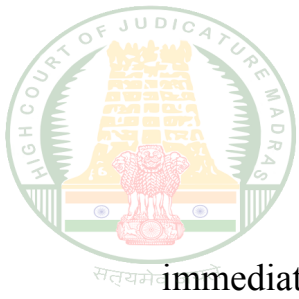
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that the death was due to electrocution.

14.1 However, excepting an evasive denial by the defendants that they are not responsible for the death of the deceased Siva stating that the electrical lines have an automatic power cut-off device and if the damaged electrical wire fell, the power supply would cut off automatically, nowhere in the written statement did the defendants dispute the fact that the electrical post got damaged because of heavy wind; due to that, the live electrical wire connected to the electrical posts got snapped off, which resulted in the untoward occurrence causing the death of the deceased Siva.

15. P.W.2, one of the eyewitnesses in his evidence, stated that the deceased Siva came into contact with the snapped-off electrical wire and died on the spot due to electrocution. P.W. 3, the doctor who conducted the autopsy, has found an abrasion on the neck of the deceased. Though the doctor (P.W.3) could not give his definite opinion as to the cause of death as electrocution for want of a viscera report, the fact that the deceased was admitted to the hospital



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immediately after he fell off from the bike due to snapping off the live electrical wire is spoken to by P.W.2.

16. A careful examination of the FIR (Ex.A.1) would further demonstrate that the electrical wire snapped off owing to a natural disaster but was left unattended and it was lying on the main road. The deceased while he was returning home after his daily work, came into contact with the snapped off electrical wire and succumbed to injuries. It is pertinent to note that, despite the defendants' denial of responsibility in their written statement, D.W.1 implicitly acknowledged in his evidence that on the day of the incident, strong winds and rain caused damage to the electrical post, causing the wire attached to the posts to break and fall onto the road. According to him, as per the records, they received information about the death of a person (Siva) in electrocution. As per their enquiry, they came to know that the deceased died only due to electrocution. However, no records has been produced. But the very admission of D.W.1 makes it clear that the death was due to electrocution and that the defendants have not disproved the evidence of P.W.1 and P.W.2. Merely because



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the doctor (P.W.3) who conducted autopsy on the body of the deceased could not offer his opinion about the cause of the death of the deceased because of non receipt of viscera report, it cannot be said that the death of the deceased Siva was not due to electrocution. When the accident is not disputed and the snapping off the electrical wire because of the damage caused to an electrical post due to heavy wind and rain and the falling of electrical wire on the main road are not disputed by the defendants/TANGEDCO, it has to be necessarily held that the defendants are solely responsible for the untoward incident. The appellants/defendants cannot place the blame on the deceased who rode the motorcycle and escape liability for electrocution caused by a snapped off live wire or snapped off wire on the public road.

16. The law has been well settled in a catena of decisions by the Hon'ble Supreme Court that compensation is based on the principle of strict liability which means that the electricity supplier is liable even if they were not negligent as long as the injury or death occurred due to the electricity supply.

18. In the case of **Madhya Pradesh Electricity Board v. Shail Kumar**



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and Others, AIR 2002 SC 551, the Supreme Court held that the electricity
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board cannot escape liability for electrocution caused by a snapped off live wire on a public road due. And 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 or loss suffered by any other person irrespective of any negligence or carelessness on the part of the managers of such undertakings. The relevant paragraph of the abovesaid judgement read 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



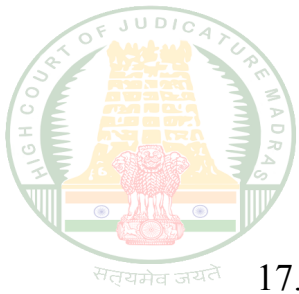
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concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence 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 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.”



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17. In the light of the facts and circumstances of the case discussed above and in the light of the law laid down by the Hon'ble Supreme Court in the case of Shail Kumari's case [(2002) 2 SCC 162], this court is of the view that the under the law of torts, the appellants/defendants are required to compensate for the injury or loss suffered by any other person. The deceased cannot be blamed for the untoward incident that had happened due to the snapping off the live electrical wire. The point Nos.1 and 2 are answered accordingly against the appellants/defendants and in favour of the respondents/plaintiffs.

Point No.3:

18. Coming to the quantum of compensation, the deceased was aged 36 years at the time of occurrence. He was working as a mason and looked after his entire family consisting of his wife, three children and mother, who were the respondents/plaintiffs. The trial court also took into consideration the fact that the sole bread winner of the family has left behind three minor children and mother apart from his spouse. As per the plaintiffs, the deceased used to earn Rs.750/- per day, which would have increased with the passage of time. The



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learned Judge, after considering the age and nature of work that was being done by the deceased, determined the pecuniary loss to the family of the deceased at Rs.6,000/- per month and after giving a deduction of 1/4th amount from the monthly income towards the personal expenses of the deceased had he been alive, concluded that the deceased would have contributed a sum of Rs.54,000/- per annum to his family had he been alive. Considering the age of the deceased, the learned Judge has applied a multiplier of 15 as per the Schedule appended to the Motor Vehicles Act, 1988 and thus awarded a sum of Rs.8,10,000/- ($\text{Rs.6,000} \times 12 = 72,000 \times 25 / 100 = 54,000/- \times 15 = \text{Rs.8,10,000/-}$) towards loss of dependency. In addition to the above, the learned Judge granted a sum of Rs.70,000/- towards loss of estate, loss of consortium and funeral expenses.

19. The trial court has elaborately considered the relevant yardsticks and after applying deduction towards personal expenses of the deceased and considering the dependants of the deceased, the trial court has granted a total sum of Rs.8,10,000/- towards loss of dependency and a sum of Rs.70,000/- towards loss of estate, loss of consortium and funeral expenses and in all a sum



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of Rs.8,80,000/- with interest @ 6% per annum from the date of plaint till the
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date of payment in full and thereafter, compensation has been apportioned to take care of the interest of all the dependants entitled to compensation. This court does not find any ground to interfere with the quantum of compensation determined by the trial court. This point is also answered accordingly against the appellants/defendants and in favour of the respondents/plaintiffs.

20. In view of the foregoing discussions, the appeal must fail.

In the result, the appeal is dismissed. The judgement and decree dated 16.12.2019 made by the learned Principal District Judge, Cuddalore, in O.S.No.217 of 2018 are confirmed. No costs. Consequently, connected CMP is closed.

Index : yes / no

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Neutral Citation : yes / no

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To

1.The Principal District Judge, Cuddalore, Cuddalore District.



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