BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.13884 of 2018
and
W.M.P.(MD)Nos.12608 of 2018 and 20695 of 2023

Kasthuri ... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Generation of Electricity
and Distribution Corporation Limited,
(TANGEDCO), Anna Salai, Chennai 2.

2.The Superintending Engineer,
TANGEDCO, Ramanathapuram District,
Ramanathapuram. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) as compensation for the death of the petitioner's husband due to Electrocution.

For Petitioner : Mr.M.Suresh Kumar

For Respondents : Mr.S.Deenadhayalan,
Standing counsel

*****

ORDER

Heard the learned counsels on either sides and carefully perused the materials available on record.

2.This writ petition is filed seeking to direct the respondents to pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) as compensation for the death of the petitioner's husband due to electrocution. The petitioner and her husband are agricultural workers. They are blessed with two children. On 08.01.2018, while the petitioner's husband was returning home along with goats, he got electrocuted due to the snapped electrical wires in the agricultural field. He died on the spot due to electrocution. The petitioner lodged a complaint before the Kamuthi police station and a FIR in Crime No.7 of 2018 was registered under sections 174 of the Code of Criminal Procedure, 1973. The postmortem report also confirmed the fact that the petitioner's husband died due to electrocution. The petitioner's husband is the only breadwinner of the petitioner's family. In this regard, the petitioner made a representation to the District Collector as well as the respondent Corporation seeking compensation for the death of the petitioner's husband. Since the same was not considered, this writ petition is filed.

3.The learned standing counsel for the 2nd respondnet Corporation, Mr. S.Deenadhayalan based on the counter affidavit submitted that alleged occurrence of the death of the petitioner's husband while returning home along with goats during heavy rain happened only since the coconut trees have fallen on the LT electric pole as a result of which the conductor got snapped. Without any precaution, unknowingly the petitioner's husband had stepped on the snapped conductor and got electrocuted. Invoking Writ Jurisdiction is highly erroneous as the same was an act of God and was not due to the negligence of the respondent officials. He further insisted that the only way out to the petitioner is to file a civil suit as per the reported judgment in ***2000 (4) SCC 543 and 2005 (6) SCC 156*** and pressed for dismissal of the writ petition.

4.Per contra, the learned counsel for the petitioner relying upon the order passed by this Court in W.P.(MD)Nos.24079 of 2008 dated 06.12.2017, 14131 of 2011 dated 22.07.2022, 9762 of 2018 dated 11.11.2024 and 15166 of 2020 dated 02.11.2020 submitted that the compensation payable in this case can be determined by applying the formula applied for computing damages in motor accident cases.

5.The relevant portion of the judgment in W.P.(MD)No.15166 of 2020 dated 02.01.2020 is extracted as follows:

> *9. The issue is no longer res integra. The Hon'ble Supreme Court in the decision reported in (2002) 2 SCC 162 (M.P.Electricity Board V. Shail Kumari and Others) held as follows:-*
>
> > *"7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the look out of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.*

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."

10. As early as in the year 1986, the Constitution Bench of the Hon'ble Supreme Court in M.C.Mehta Vs. Union of India (1987) 1 SCC 395 held that we need not feel inhibited by technical considerations surrounding the rule in Rylands Vs. Fletcher (1868) L.R.3 H.L. 330 and that we have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialized economy. They therefore held that where an *enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-avis the tortious principle of strict liability under the rule in Rylands Vs. Fletcher.*

11. The Madras High Court in a string of decisions has held that public law remedy is very much available in such cases. I can straightaway refer to the decisions reported in 2012 (2) CTC 646 (Alamelu Vs. State of Tamilnadu) and (2013) 2 MLJ 302 (Arulmeri V. Superintendent of Engineer, TNEB).

12. It has further been laid down that compensation payable in such cases can be determined by applying the formula applied for computing damages in motor accident cases.

6.For the purpose of calculating the compensation under various heads entitled to the petitioner adopting the guidelines of the judgments of the Hon'ble Supreme Court are as follows:

Deduction towards personal expenses of the deceased is based on the decision of the Supreme Court in ***Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*** that has been followed and approved by the Constitution Bench of the Supreme Court in ***National Insurance Company vs. Pranay Sethi - 2017 (2) TNMAC 609 (SC)*** and, later on, followed in ***United India Insurance Company Ltd. vs. Satinder Kaur alias Satwinder Kaur and others, 2020 SCC Online SC 410***. In Sarla Verma (supra), it has been held as follows:

> *30.Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra [(1996) 4 SCC 362], the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third* ***(1/3rd) where the number of dependent family members is 2 to 3****, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.*

> *The law regarding future prospects was summarized by the Supreme Court in Pranay Sethi (supra), where it is held:*

"54. ... It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. ...

58. .... Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., ***an addition of 40% of the established income of the deceased towards future prospects*** *and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable."*

7.Fully fortified by the judgment of this Court extracted supra, I hereby arrive at the value of compensation as follows:

Age of the deceased is 26.

Dependants - 3

The cost of inflation index for the year 2007-2008 is 129 and for the year 2018-2019 will be 280 (Andal case – 2019(1) TNMAC 54 (DB))

The Notional Income fixed by the Hon'ble Supreme Court of India for the Vegetable vendor is Rs.6500/- during the year 2007-2008	*	Cost of Inflation Index for the year 2018-2019

Cost of Inflation Index for the year 2007-2008

Therefore, Income of deceased is $\frac{Rs.6500 * 280}{129}$ = Rs.14,108/- rounded off to Rs.14,000/-

Thus, the notional income of the deceased after applying Inflation Index, will be a sum of Rs.14,000/-.

The deceased being 26 years old, the applicable multiplier as per Sarla Verma Case – 2009 (2) TNMAC 1 is 17.

Deducting 1/3rd towards personal expenses of the deceased, the income will be Rs.9,333/-

Adopting Praney Sethi Case – 2017(2) TNMAC 609 (SC) 40% of the monthly income is added to future prospectus, that is, Rs.9,333/- + Rs. 5,600/- = Rs.14,933/-

Applying multiplier '17' the total loss of dependency per annum would work out to Rs.30,46,332/- - (Rs.14,933 * 12 *17)

Hence, the total compensation payable to the petitioner is as hereunder:

S.No.	Description	Amount
1.	Loss of dependency	Rs. 30,46,332/-
2.	Loss of spousal consortium to the petitioner	Rs. 40,000/-
3.	Loss of estate	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Transportation	Rs. 5,000/-
	Total	Rs. 31,11,332/-

7.In view of the above said discussion, the 2nd respondent herein is directed to pay a sum of Rs.31,11,332/- (Rupees Thirty One Lakhs Eleven Thousand Three Hundred and Thirty Two only) as compensation with 4.5 percent interest per annum from the date of death, that is, from 08.01.2018 till the date of actual payment.

8.Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

27.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Chairman,
Tamil Nadu Generation of Electricity
and Distribution Corporation Limited,
(TANGEDCO), Anna Salai, Chennai 2.

2.The Superintending Engineer,
TANGEDCO, Ramanathapuram District,
Ramanathapuram.

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.13884 of 2018

27.01.2025