



W.P.(MD).No.23389 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23389 of 2023

and

W.M.P.(MD)No.22427 of 2023

Kothandaram Rettiar

... Petitioner

Vs.

1.The Chairman,
TANGEDCO,
Annasalai,
Chennai - 2.

2.The Superintendent Engineer,
TANGEDCO,
Trichy District.

3.The Executive Engineer,
TANGEDCO,
Thennur,
Trichy District.

... 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 compensation to the petitioner a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) with interest for the death of Loganathan due to electrocution on 22.06.2023 at agriculture field.



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For Petitioner : Mr.S.Pugalendhi
For Respondents : Mr.S.Deenadhayalan,
Standing counsel

ORDER

This writ petition is filed seeking to direct the respondents to pay compensation to the petitioner to a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) with interest for the death of his son Loganathan due to electrocution on 22.06.2023.

2.Heard the learned counsel for the petitioner, Mr.S.Pugalendhi, the learned standing counsel for the respondents, Mr.S.Deenadhayalan and carefully perused the materials available on record.

3.The brief facts are as follows:

The petitioner's son one Loganathan was an agriculture labour and he was the sole breadwinner of the petitioner's family. On 22.06.2023 at about 2.30 pm, while the petitioner's son Loganathan was working in the agriculture land of one Thiru.Senthil, the stay wires in a high voltage tower erected by the 3rd respondent in the said land fell down on the solar panel in the agriculture field, as a result of which the petitioner's son suffered



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electrocution causing his death instantly. The deceased son of the petitioner was earning Rs.15000/- (Rupees Fifteen Thousand only) per month. The death of the petitioner's son had happened only due to the negligence and carelessness on the part of the respondents by not properly maintaining the high voltage electricity wire. Regarding the death of the petitioner's son, a complaint was given to the Inspector of Police, Thuvrankuruchi Police Station and a crime in FIR. No.155/2023 was registered on the same day, that is, on 22.06.2023 under section 174 of the Code of Criminal Procedure, 1973. The post mortem certificate also revealed the cause of death of Thiru.Loganathan was due to electrocution. The electricity board officials despite bound by a statutory obligation to maintain high tension wires, stay rods and high voltage towers properly providing safety devices so as to prevent electrocution of common public, have failed to maintain the same effectively. Hence, the petitioner need to be compensated by the respondent corporation for the death of his son without whom the petitioner will find his livelihood difficult. The petitioner and his wife are the sole dependents and legal heirs of the deceased Loganathan. Under such circumstances, the petitioner made a representation on 22.06.2023 and a further representation on 24.08.2023 to the respondents seeking compensation for



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their son's death. Since the same was not considered, this writ petition came to be filed.

4.The learned standing counsel appearing for the respondent corporation Mr.S.Deenadhayalan submitted that though the death of the petitioner's son was due to electrocution, the Tamil Nadu Power Distribution Corporation Limited by TNPDC proceedings No.11 dated 21.12.2024 has issued orders enhancing the payment of compensation to the legal heirs of the non-departmental persons in case of death due to electrical / mechanical accidents and for the cases which are fatal, the compensation which has been approved by the board of TNPDC in its 126 board meeting dated 25.11.2024 is Rs.10,00,000/-(Rupees Ten Lakhs only) and the corporation is bound to pay the said amount as compensation to the petitioner.

5.Per contra, the learned counsel for the petitioner relying upon the judgments of this Court in W.P.(MD)No.15166 of 2020 dated 02.11.2020, W.P.(MD)No.24079 of 2008 dated 06.12.2017, W.P.(MD)No.14131 of 2011 dated 22.07.2022 and W.P.(MD)No.9762 of 2018 dated 11.11.2024 sought for enhanced compensation by applying the formula applied for computing damages in motor accident cases. The relevant portion of the order passed



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by this court in W.P.(MD)No.15166 of 2020 dated 02.11.2020 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.



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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*



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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. Saravanan was aged 22 years, when he died. He is survived by his parents and his younger brother Bharathi. Saravanan of course was not in a salaried job. Therefore, his monthly income can be taken as Rs.12,000/-. Since he was a bachelor, he would have spent 50% of the sum on himself. The multiplier is "18". The loss of income to the family can be calculated as follows:-

$$\text{Rs.6,000/-} \times 12 \times 18 = \text{Rs.12,96,000/-}$$

A further sum of Rs.70,000/- must be awarded under the conventional heads. He was riding a two wheeler and it was damaged beyond repair. The value of the vehicle can be



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assessed at Rs.20,000/-. The total sum payable to the family can therefore be computed as Rs.13,86,000/-(Rupees Thirteen Lakhs and Eighty Six Thousand only). Invoking the Board proceedings (Per.)(FB) TANGEDCO Proceedings No.6 dated 16.10.2019, TANGEDCO was directed to pay a sum of Rs. 5,00,000/- and the same was paid to the petitioner on 29.10.2020. TANGEDCO is also directed to pay the balance amount of Rs.8,86,000/- within a period of twelve weeks from the date of receipt of a copy of this order. TANGEDCO is directed to create two Fixed Deposits, one for a sum of Rs.6,00,000/- in the name of the mother of the deceased, namely, Ramalakshmi and Rs.2,86,000/- in the name of the father of the deceased, namely, Sendhattikalaipandian in any nationalised bank. The deposit holders cannot encash the fixed deposits for a period of ten years. They can however withdraw the accrued interest once in three months.”

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



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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:

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself.

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.”



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7. Fully fortified by the mandates of the aforesaid judgments, I hereby calculate the compensation to which the petitioner is entitled to as follows:

Age of the deceased is 50 years.

Dependants herein are the parents of the deceased.

Cost inflation for the year 2022-2023 is 331 and for the year 2007-2008 will be 129. Now the Notional Income of the deceased is calculated as below:

The Notional Income fixed by the

Hon'ble Supreme Court

Of India (Syed Sadiq case) for

vegetable vendor during the

year 2007-2008 is Rs.6500/-

Cost of Inflation index

for the year 2022 - 2023

*

Cost of Inflation Index for the year 2007-2008

6500*331

= $\frac{6500 \times 331}{129}$ = Rs.16,678.29 rounded off to Rs.16,000/-

Thus Notional Income is re-fixed as Rs.16,000/- from Rs.6,500/-.

As per Sarla Verma Case 2009 (2) TN MAC (SC) for age group between 45 to 50 years old person, the multiplier to be adopted is 13.



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After deducting 50% towards personal expenses from notional income
- Rs.16,000/- Rs.8,000/- = Rs.8,000/-

Adopting Pranay Sethi Case – 2017 (2) TNMAC 609 (SC) 25% is added
as future prospects = Rs.8,000/- + Rs.4,000/- = Rs.12,000/-. Thus, the
monthly income of the deceased is fixed at Rs.12,000/-.

Applying the multiplier of 13 the total loss of dependency per annum
would work at Rs.18,72,000/- (Rs.12,000 * 12 *13)

S.No.	Description	Amount
1.	Loss of Dependency	Rs.18,72,000/-
2.	Funeral Expenses	Rs. 15,000/-
3.	Loss of filial consortium to the petitioner and his wife	Rs. 40,000/-
4.	Transport	Rs. 5,000/-
5.	Loss of Estate	Rs. 15,000/-
	Total	Rs.19,47,000/-

8.In view of the above discussion, the respondents herein are directed
to pay a sum of Rs.19,47,000/- (Rupees Nineteen Lakhs Forty Seven
Thousand only) as compensation with 4.5% interest per annum from the
date of death, that is, 22.06.2023 till the date of actual payment. The said
exercise shall be completed within a period of four (4) weeks from the date of
receipt of a copy of this order.



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9. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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

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L.VICTORIA GOWRI, J.

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