
(2012) 02 MAD CK 0282

In the Madras High Court

Case No : Writ Petition (MD) No. 7205 of 2011 and M.P. (MD) No. 1 of 2011

Alamelu

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 29-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 174
Electricity Act, 2003 — Section 68

Citation : (2012) 2 CTC 644

Hon'ble Judges : K.K. Sasidharan, J

Bench : Single Bench

Advocate : A. Rahul, for the Appellant; M. Alaguthevan, Special Government Pleader for Respondent No. 1 and S.M.S. Johnny Basha, Advocate for Respondent Nos. 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

K.K. Sasidharan, J.—This Writ Petition, at the instance of a widow and eye witness to the unfortunate incident of electrocution of her husband, seeks a direction to the Electricity Board to pay a sum of Rs. 10,00,000/- (Rupees ten lakhs only) as compensation.

Facts in Nutshell:

The husband of the Petitioner by name Rajaram was conducting a hotel in the name and style of "M/s. Sarojini Mess". The Petitioner was assisting her husband in the conduct of hotel. The husband of the Petitioner was doing considerable business in view of the strategic location of the shop. He was earning a sum of Rs. 30,000/- per month. The hotel was situated at Natham-Dindigul Main Road, Meenakshi puram, Natham. There were two electric poles in front of the hotel. The electricity cables from the said poles were passing in front of the shop very close to the entrance and that too, at a low level. Even though the husband of the Petitioner made complaints to the Electricity Department on many occasions, requesting them to lift the electric wires to higher level from the ground, the

same was not considered.

2. While so, on 04th May, 2011, at about 05.00 a.m., the Petitioner along with her husband were proceeding to open the hotel. Suddenly, the electric wires got snapped and fell on her husband who was ahead of her. He was electrocuted in the immediate presence of the Petitioner. Though the Petitioner tried to rescue, bystanders prevented her from touching him. The husband of the Petitioner died after screaming and crying in front of her own eyes. Electricity was later switched off and thereafter, the body was removed for Post-mortem. The Police registered a case in Crime No. 261 of 2011 u/s 174 of the Code of Criminal Procedure. The Post-mortem Certificate issued by the Medical Officer, Government Hospital, Natham indicates that her husband died of shock and hemorrhage due to electrocution.

3. According to the Petitioner, the death was solely on account of the negligence on the part of the officials of Electricity Board. The deceased was aged 39 years as on the date of his death. He was survived by the Petitioner and two minor children. The sudden death caused immense pain and sufferings to the family. Therefore, the Petitioner seeks a sum of Rs. 10,00,000/- as compensation.

4. The Junior Engineer, attached to Natham Electricity Distribution Circle filed a Counter, wherein it was indicated that due to heavy rain and heavy wind, a branch of tree fell on the electric line and thereby, the wire was snapped as it was lying at a low level. The snapping of line was not due to improper maintenance. It was due to heavy rain and wind. Therefore, the department was not responsible for the incident in question. In short, the Electricity Board disowned their liability.

Rival Submissions:

5. The learned Counsel for the Petitioner contended that the incident in question was solely on account of the negligence of the officials of Electricity Board. The Board was expected to maintain the line. However, they miserably failed in their duty. It was only on account of gross negligence, the tree fell on the electric line. Therefore, the Electricity Board cannot escape from the liability.

6. The learned Standing Counsel for the Electricity Board submitted that a branch of tree fell on the electric line and that was the sole cause for the incident. The Electricity Board cannot be made responsible for such unforeseen incidents and act of God. Therefore, no liability could be fastened on the Board.

Analysis:

7. There is no dispute with regard to the incident or the cause of death. The First Information Report in Crime No. 261 of 2011 on the file of Natham Police Station clearly shows that Mr. Rajaram died due to electrocution.

8. The Electricity Board wanted the Board to be relieved of responsibility to pay compensation. According to the Electricity Board, due to heavy rain and heavy

wind, a branch of tree fell on the electric line and thereby, the wire was snapped as it was lying at a low level. The snapping of line was not due to improper maintenance. It was due to heavy rain and wind.

Statutory Framework:

9. Section 68 of the Electricity Act, 2003 contains provisions relating to overhead lines. The said provision reads thus:

68. Overhead lines.-(1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).

(2) The provisions contained in sub-section (1) shall not apply-

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or

(c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under subsection (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the Application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an Application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

10. The principal question is whether the Tamil Nadu Electricity Board was responsible for the incident in question.

11. The Electricity Board, being the suppliers of electricity, was expected to maintain the supply system in a very good condition. The Board was bound to maintain the live wire and other electrical system used for the purpose of

transmission of electricity. The consumers or the property owners have no control over the electrical system and the transmission line. In case of an incident involving electricity line, the burden is essentially on the Electricity Board to plead and prove that it was not their fault and the snapping cannot be described to be an act of negligence. When an incident of this nature is reported, inference can surely be drawn that there has been an element of carelessness on the part of the Electricity Board in maintaining the supply line.

12. The Board being the licensee was expected to conduct pre-monsoon inspection for the purpose of taking preventive measures within the meaning of Regulation 20 of Supply Code. There is nothing on record to show that the Board officials have discharged their duty.

13. The Concept of Strict Liability in the context of snap electrocution came up for consideration before the Supreme Court in *Madhya Pradesh Electricity Board Vs. Shail Kumari and Others*, The Supreme Court interpreted the rule of strict liability and directed the Electricity Board to pay compensation to the dependents of the deceased, after arriving at a finding that the live wire got snapped and fell on the public road which was partially inundated and the deceased rod over the wire, which twitched and snatched him resulting in his instantaneous electrocution. The Supreme Court indicated the theory of foreseeable risk in the following words:

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 lookout 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 case 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.

14. The next question is in respect of quantum.

15. There is no strait-jacket formula in a case of this nature for determination of compensation. The Court has to take the assistance of other enactments, to arrive at a decision with regard to compensation.

16. Life is something precious. It is invaluable. Human life cannot be computed in terms of money. The minor children lost their father. They lost his affection once for all. Money would not give them the company of their father. The Petitioner became a widow at her young age of 36. The deceased opened the hotel with high expectations. He was paying professional tax to the local body. The deceased was hale and healthy. He lost his life on account of the negligent attitude of the officials of Electricity Board. While assessing the loss sustained by the family, all these relevant factors should also be taken note of.

17. Though this is not a case of motor accident, the principles governing the matter of assessment of compensation under the Motor Vehicles Act necessarily have to be adopted in a case like this.

18. The multiplier method is found to be the safe method to assess compensation. The Courts are expected to award just compensation. The compensation so awarded should be reasonable, fair and proper.

19. The deceased was aged about 39 years. He was running a hotel in a covetable locality. Given the strategic location, he would have earned a minimum sum of Rs. 6,000/- per month. Therefore, his annual income would be a sum of Rs. 72,000/-. He would have spent one third of the income towards his expenses. Therefore, the total income would be a sum of Rs. 48,000/- per annum. In case it is multiplied by adopting a multiplier of "15", the total income would come to Rs. 7,20,000/- The Petitioner being the wife is entitled to a sum of Rs. 5,000/- by way of Loss of Consortium, besides a sum of Rs. 2,000/- towards Funeral Expenses. Accordingly, the amount of compensation is fixed at Rs. 7,27,000/- [Rupees seven lakhs and twenty seven thousand only].

Conclusion:

20. The Electricity Board is directed to pay a sum of Rs. 7,27,000/- [Rupees seven lakhs and twenty seven thousand only] by way of compensation to the Petitioner. The Board is further directed to pay the amount together with interest at 6% from the date of Petition viz., 30 June, 2011, within a period of eight weeks from today. The Writ Petition is allowed accordingly with cost quantified at

Rs. 8,000/- [Rupees eight thousand only]. Consequently, the connected Miscellaneous Petition is closed.