

K.S.E.B. Vs. Jaimon

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Court : Kerala

Decided On : Jan-06-2014

Judge : Honourable Mr.Justice Thottathil B.Radhakrishnan

Appellant : K.S.E.B.

Respondent : Jaimon

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE HONOURABLE MR. JUSTICE P.UBAID MONDAY,THE6H DAY OF JANUARY201416TH POUSHA, 1935 RFA.No. 74 of 2008 (B)
----- [AGAINST THE

JUDGMENT

AND DECREE DATED1811/2006 IN O.S.NO.164/2004 OF THE SUB COURT, PALA] APPELLANTS/DEFENDANTS: ----- 1. KERALA STATE ELECTRICITY BOARD- REP. BY ITS SECRETARY, VAIDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER, KERALA STATE ELECTRICITY BOARD, ELECTRICAL MAJOR SECTION, PALAI (P.O.), KOTTAYAM DISTRICT.

3. THE ASSISTANT ENGIEER, KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION, ERATTUPETTA (P.O), KOTTAYAM (DISTRICT). BY

SRI.N.N.SUGUNAPALAN(SR.)S.C, ADV. SRI. S. SUJIN.
RESPONDENTS/PLAINTIFFS: ----- 1. JAIMON, S/O.
JOHN, AGED32YEARS, PULICKAL HOUSE, VATTAKAYAM BHAGOM,
ERATTUPETTA VILLAGE, MEENACHIL TALUK.

2. JINNET, D/O.JAIMON, AGED8(MINOR), PULICKAL HOUSE, VATTAKAYAM
BHAGOM, ERATTUPETTA VILLAGE, MEENACHIL TALUK, REPRESENTED- BY
HER FATHER AND NATURAL GUARDIAN JAIMON, S/O.JOHN, AGED32
PULICKAL HOUSE, VATTAKAYAM BHAGOM, ERATTUPETTA VILLAGE,
MEENACHIL TALUK. Prv. R.F.A. NO.74/2008-B:

3. JASMIN, D/O.JAIMON, AGED2(MINOR), PULICKAL HOUSE, VATTAKAYAM
BHAGOM, ERATTUPETTA VILLAGE, MEENACHIL TALUK-REPRESENTED BY
HER FATHER AND NATURAL GUARDIAN, JAIMON, S/O.JOHN, AGED32
PULICKAL HOUSE, VATTAKAYAM BHAGOM, ERATTUPETTA VILLAGE,
MEENACHIL TALUK. BY ADV. SRI.P.K.MUHAMMED. THIS REGULAR FIRST
APPEAL HAVING BEEN FINALLY HEARD ON0601-2014, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: Prv. THOTTATHILP.UBAID,
B.RADHAKRISHNAN & JJ.

..... RFA No.74 of 2008
..... Dated this the 6th day of January,
2014.

JUDGMENT

Thottathil B.Radhakrishnan, J.

1.Defendants, the Kerala State Electricity Board and its Officers, are the appellants. 2.This appeal is against a decree for compensation granted to two minor daughters of Mini and her husband on account of electrocution of Mini. The incident is not disputed by the defendants in the written statement. According to the plaintiffs, when the second plaintiff came home from School, she found her mother lying in the courtyard and when the daughter touched the mother, the daughter also got electric shock. Mini suffered burn injuries and, ultimately, she

died. The KSEB refuted the plaintiffs' case that the electric line was in continuous contact with a tree. They, however, said that even if that were so, there was no complaint or report ever made by the occupants of the house to the local officers of the KSEB. Further plea is that the line would RFA7408 -2- have snapped as a result of natural calamity and that is not attributable to any negligence by the Board officials. 3. On the aforesaid facts situation, the doctrine of strict liability as enunciated by the Apex Court and this Court in W.B. SEB v. Sachin Banerjee [(1999) 9 SCC 21, M.P. Electricity Board v. Shail Kumari [(2002) 2 SCC 162 and Varghese and another v. K.S.E.B. [ILR 2013(2) Ker. 99], also following Quebec Rly., Light, Heat and Power Co. Ltd., v. Vandry [1920 AC 662, clearly rules out the defence set up by the Board. KSEB is the statutory licensee dealing with a dangerous substance. Its obligations are not discharged by merely placing pleadings as noted aforesaid. On the facts and circumstances, the court below was justified in holding that the defendants are liable to compensate the plaintiffs. 4. The court below granted an amount of `4,58,000/- as compensation with a direction that an amount of `50,000/-, if paid by the Board under its Insurance Policy, could be deducted from that amount. The material evidence through PW1 was that Mini died at the age of 32 years and she used to assist her RFA7408 -3- husband in the fruit business and she was also getting sufficient income from the business. The deceased was a housewife at the time of death. Dependency, not only financial, was also found. The court below rightly applied relevant yardstick to arrive at just, reasonable and due compensation. The reasoning of the determination of the compensation payable is such that it does not warrant interference in appeal. 5. For the foregoing reasons, this appeal fails. In the result, this appeal is dismissed, however without any order as to costs. Balance amount outstanding, after deposits, if any, in terms of the interim order, shall be deposited before the court below in terms of the impugned judgment and decree, including with accrued interest, within a period of one month from the date of receipt of a copy of this judgment. (THOTTATHIL B. RADHAKRISHNAN, JUDGE) (P. UBAID, JUDGE) jg