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S.Kanagaraj Vs. the Superintending Engineer

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Court : Chennai

Decided On : Apr-02-2012

Judge : G.Rajasuria, J.

Acts : Code of Criminal Procedure(CrPC) - Section 174; Constitution of India - Articles 226

Appeal No. : C.R.P.(NPD).1238 of 2012 and M.P.No.1 of 2012

Appellant : S.Kanagaraj

Respondent : The Superintending Engineer

Advocate for Def. : Mr.Rameshwar, Adv

Advocate for Pet/Ap. : Mr.B.Nedunchezhiyan, Adv.

Judgement :

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of writ of mandamus directing the first respondent to pay a compensation of Rs.2,00,000/- to the petitioner as per representation dated 12.10.2009.

ORDER

1. The writ petition is filed for issuance of a writ of mandamus directing the first respondent to pay a compensation of Rs.2,00,000/- to the petitioner as per representation dated 12.10.2009 .

2. The petitioner is the father of one deceased Thirumalaisamy, who died at the age of 48 years as a bachelor. On 8.6.2009, the deceased Thirumalaisamy was proceeding from his house to attend his work. At that time, the E.B.Foreman was repairing the transformer located about 15 feet from the house of the deceased. When the deceased was passing by the transformer, the E.B.Foreman without taking caution, switched on the transformer. The said transformer suddenly burst and as a result the oil contained in the transformer together with other steel parts fell on the head of Thirumalaisamy. Due to the impact he sustained grievous injuries. The said Thirumalaisamy was immediately taken to the Government Hospital, Coimbatore and treated as inpatient from 8.6.2009 onwards. In spite of the best treatment given to him, he died on 12.6.2009 at 10.30 p.m. A case was registered on the file of the Karuthapatty Police Station, Coimbatore in Cr.No.631 of 2009 under Section 174 of Cr.P.C. alleging that due to the negligence on the part of the Electricity Board in maintaining the transformer the grave incident resulting in death occurred. The petitioner father gave a representation on 12.10.2009 along with the postmortem certificate, death certificate and F.I.R. copy to the respondents claiming compensation, in vain. Hence, the petitioner has filed the present writ petition for the relief as stated above.

3. The respondents have filed counter affidavit stating that the death of the petitioner's son was not caused due to the negligence of the respondent Board but the said incident occurred due to the conduct of the petitioner's son who on his own stood near the transformer in spite of the warning of the wireman to keep away from the transformer. Thus, the respondents sought for dismissal of the writ petition.

4. Heard Mr. B.Nedunchiezhian learned counsel for the petitioner and Mr.Rameshwar, learned counsel for the respondents.

5. The case of the petitioner on the cause of death is proved by the F.I.R and postmortem copy. The respondents have not denied the factum of the incident

which resulted in the bursting of transformer and the death of the petitioner's son due to the above stated grave incident. In this case, the negligence is amply proved by the improper maintenance of the transformer by the respondents and also due to carelessness on the part of the department worker by exposing the public to danger. The respondent department is collectively responsible for the death caused due to bad maintenance and carelessness. This is confirmed by the case registered in Cr.No. 631 of 2009 under Section 174 of Cr.P.C. In view of the above facts and circumstances, the writ petition has to be allowed.

6. The deceased in this case was aged 48 years coolie and a bachelor at the time of his death. Considering his earning capacity during the period of accident i.e. 2009 and the parameters of the Motor Vehicles Act in respect of death of similar persons, the petitioner is entitled to get a higher compensation than what has been claimed by him. The petitioner in this case has restricted his claim to Rs.Two lakhs. If the compensation in terms of the Motor Vehicles Act is taken into consideration, the compensation payable will be much more. In any event taking note of the claim made by the petitioner and also taking note of the fact that at the time of death, his son was a bachelor and a coolie by occupation and the petitioner is now aged 74 years, the respondents are directed to pay compensation of Rs.2,00,000/- (Rupees Two lakhs only) to the petitioner within six weeks from the date of receipt of copy of this order. The writ petition is allowed as prayed for. No cots.

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