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REV.APPL Nos.77 & 76 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 19-06-2026

Delivered on: 16-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MRS.JUSTICE N. MALA

REV.APPL No. 77 of 2023

AND

REV.APPL NO. 76 OF 2023

B.Saraladevi

W/o. R. Boopalan, 115, Nadu Theru, Kizhanthur
Village and Post , Arakkonam Tk, Vellore Dist.

..Petitioner(s)

Vs

1. The Government Of Tamilnadu
Rep. by its Chief Secretary, Fort st George,
Chennai
2. The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd., No 144, Anna Salai, Chennai
600 002
3. The Superintending Engineer
Kanchipuram Electricity Distribution Circle,
Anna Malligai, Olimohamdpet, Kanchipuram
4. The Assistant Engineer
TNGEDCO, Tiruthani.

..Respondent(s)

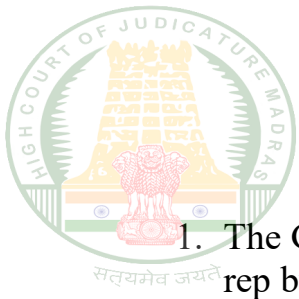
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REV.APPL No. 77 of 2023

Review Application filed under Order XLVII Rule 1 of CPC read with Section 114 of CPC, to Review the order passed in the above WA No.1320/2022 dated 12.07.2022

REV.APPL No. 76 of 2023

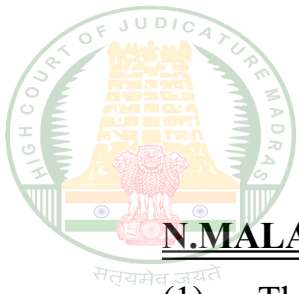
Review Application filed under Order XLVII Rule 1 of CPC read with Section 114 of CPC, to Review the order passed in the above WA No.2424/2021 dated 12.07.2022

For Petitioner(s) in
both petitions:

R.S. Anandan
Shakila Anand
A.Niveditha
A.Niranjana

For Respondent(s):

Chennai

**COMMON ORDER****N.MALA, J.**

- (1) The review petitioner has filed the above review petitions challenging the common judgment passed by this Court in WA.Nos.2424/2021 and 1320/2022 dated 12.07.2022.
- (2) The facts leading to the filing of the review petitions are that the petitioner's husband, was standing near the bus stop with his two wheeler and chatting with his colleague. While so, the transformer installed near the bus stop exploded resulting in the death of the petitioner's husband. The petitioner alleging negligence of the respondent-Board in failing to maintain the transformer properly, claimed damages and compensation apart from claiming compassionate appointment by submitting a representation to the respondents. Since the respondents did not respond, the petitioner filed the writ petition in WP.No.18628/2017, claiming compensation of Rs.28,40,000/- for the death of her husband on account of the explosion of the transformer.
- (3) The learned Single Judge of this Court, by order dated 15.03.2021, allowed the writ petition by granting compensation of Rs.20,83,000/-, with 7.5% interest from the date of representation dated 29.05.2017 till the date of payment and payable within a period of three months from the date of receipt of a copy of the order. Aggrieved by the aforesaid order of the learned Single Judge, the respondent/Board filed WA.No.2424/2021.



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The petitioner also, not satisfied with the compensation awarded by the learned Single Judge, preferred WA.No.1320/2022. Both the writ appeals were taken up together for hearing and by a common judgment dated 12.07.2022, the Division Bench of this Court, in which one of us was a party [N.MALA, J], allowed the Writ Appeal [WA.No.2424/2021] filed by the respondent/Board and dismissed the Writ Appeal [WA.No.1320/2022] filed by the petitioner herein. Aggrieved by the common judgment passed in WA.Nos.2424/2021 and 1320/2022, the petitioner is before this Court by way of the above review petitions.

- (4) The learned counsel for the review petitioner made two fold submissions. The learned counsel submitted that there was an error apparent on the face of the record in the impugned order inasmuch as the Court erroneously held that there was no bus stand or bus shelter near the transformer where the deceased was allegedly standing at the time of the explosion. The learned counsel further submitted that the learned Single Judge, having ordered compensation, it was unfair for the Division Bench to have relegated the petitioner to the Civil Court, an admittedly long drawn process, for getting compensation. The learned counsel for the petitioner, in support of his submission that the Division Bench erred in the finding that there was no bus stand or bus shelter near the transformer, produced two photographs. The learned counsel, therefore prayed that the revision petitions be allowed.



(5) We have heard the learned counsel for the petitioner and perused the materials placed on record.

(6) The learned counsel for the petitioner contended that there was an error apparent on the face of the record, inasmuch as this Court found that there was no bus shelter near the transformer which exploded, resulting in the death of the petitioner's husband. The learned counsel submitted that this factual error in the order is established by the two photographs produced by him. The learned counsel submitted that in the photographs, a bench is seen which establishes that the bus shelter was very much existing near the transformer. A perusal of the photographs shows that they do not bear any date or time and therefore, in our view, the photographs, by themselves, cannot establish the existence of the bus stand.

(7) Moreover, the very fact that the respondent/Board disputed the existence of the bus stand shows that it is a disputed fact which has to be proved in a manner known to law and not by mere production of undated and untimed photographs. The factum of death of the petitioner's husband due to the explosion of the transformer is not an issue. The real issue is whether the negligence of the respondent/Board in maintaining the transformer, resulted in the death of the petitioner's husband. The respondent/Board, in their counter, took a categorical stand that it was the deceased who invited the accident by standing very close to the transformer, despite the presence of a warning / danger board. The



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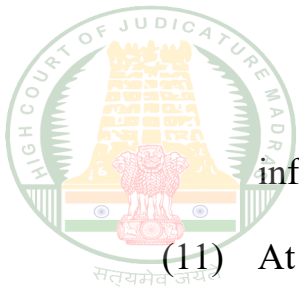
further contention of the respondent/Board was that the explosion of the transformer was not due to its negligence in maintaining it, but an act of God, occasioned by the extreme summer temperatures. In our considered view, in the absence of a rejoinder or a reply affidavit, denying the aforesaid factual contentions of the respondent/Board, raised in their counter, even assuming the photographs established the existence of the bus stand, the fact in itself does not aid the case of the petitioner in view of the dispute raised by the respondent/Board regarding negligence. We therefore find that this Court was justified in relegating the petitioner to the Civil Court to establish her claim for compensation.

- (8) The learned counsel for the petitioner next contended that the review petition is filed since it is a matter of common experience that civil disputes are often long drawn. In our view, the said contention is untenable. Mere delay in conducting civil proceedings cannot be a reason or ground for entertaining the review petition. The scope of review jurisdiction is well established. The review petition cannot be entertained unless and until an error apparent on the face of the record is established. Even such error must be glaring, obvious and evident without having to address extended arguments or fishing into the facts. It is well settled that a review is not an appeal in disguise, whereby even an erroneous decision will be re-heard and corrected.



(9) Therefore, *we find absolutely no merit in the review petitions and hence, the same are dismissed.*

(10) Before parting with the case, we express our deep anguish at the growing tendency of the litigants in approaching this Court for compensation for death due to electrocution invoking Article 226 of the Constitution despite the availability of an efficacious and alternate remedy of a civil suit. The present case is a typical example of misuse of the said Article. Undoubtedly, Part III of the Constitution is one of its salient features, which provides for the enforcement of the Fundamental Rights, guaranteed by it. The Constitution, as we all know, is organic and the jurisprudence of Fundamental Rights has evolved tremendously during its growth. The Constitutional Courts have always lived up to the exceptional requirements of the society by deviating from the traditional understanding of its principles. In one of the earliest judgments, namely, in the case of *State of Madras Vs. V.G.Row*, [AIR 1952 SC 196], the Hon'ble Supreme Court of India, declared itself as watchful guardian of the Fundamental Rights of its people. Over the years, the Hon'ble Supreme Court, in a catena of judgments like *Nilabati Behera Vs. State of Orissa* [1993 [2] SCC 746], *D.K.Basu Vs. Union of India* [1997 [1] SCC 416] and *Hindustan Papers Corporation Limited Vs. Anandha Bhattacharjee* [2004 [6] SCC 213], and other cases, discussed and recognized the concept of public law remedy emanating from the



infringement of the Fundamental and Human Rights of the people.

(11) At this juncture, it would be apposite to refer to the following decision of the Hon'ble Supreme Court, wherein compensation was either awarded or the award thereof was confirmed for proven and undisputed violations of the Fundamental Rights guaranteed under Article 21 of the Constitution, on the premise that such violations constituted a constitutional tort warranting the public law remedy:-

(12) In ***Chairman, Railway Board, Vs. Chandima Das [AIR 2000 SC 988 : 2000 [2] SCC 465]***, award of compensation by the Hon'ble High Court for a sum of Rs.10 lakhs to a Bangaldeshi National who was sexually assaulted by an eastern Railway employee, was upheld by the Hon'ble Supreme Court.

(13) In ***M.S.Grewal Vs. Deep Chand Sood [AIR 2001 SC 3668 : 2001 [8] SCC 151]***, the Apex Court awarded compensation for the unfortunate death of 14 students who died due to drowning in a river, when they were taken on an excursion by the School authorities.

(14) In ***MCD Vs. Association of Victims of Uphaar Tragedy[2005 [9] SCC 586]***, the Hon'ble Supreme Court directed the Municipal Corporation of Delhi, to deposit a sum of Rs.3,01,40,000/- for payment to the families of the deceased who died in the Uphaar Theatre tragedy.

(15) In ***Delhi Jal Board Vs. National Campaign for Dignity and Rights of Sewerage and Allied Workers [2011 AIR SCW 4916]***, the Apex Court



enhanced the compensation awarded by the High Court to the families of the sewerage workers who met with tragic death.

(16) In the above and other similar cases, the Hon'ble Supreme Court, not only justified but also observed that it is obligatory for the Constitutional Courts to entertain claim based on strict liability for infringement of Fundamental Rights on the basis that such claims were distinct from and in addition to the remedy under other laws for damages for the tortious liability. Pertinently, the Hon'ble Supreme Court, at the same time, sounded a word of caution that it was not every violation of the provisions of the Constitution or a statute which would enable the Constitutional Courts to direct grant of compensation, but only in cases where the Fundamental Rights of the citizens under Article 21 was offended.

(17) Even this Court, in several cases awarded compensation to the families of the victim who died under various circumstances like custodial death, illegal rape and arrest, killing of medical student in Government Medical College Hospital, etc.

(18) Undoubtedly, in the judgments mentioned above, the Hon'ble Supreme Court has categorically held that where death occurs due to infringement of Article 21 of the Constitution, resort can be had to the public law remedy for claiming compensation for the constitutional tort. However, a careful survey of the judgments, rendered in electrocution cases discloses



that Courts have adopted divergent approaches, each turning on the peculiar facts and circumstances of the case.

(19) In *Mrs.Saroja Vs. Government of Tamil Nadu [2014 [3] CTC 553]*, a Hon'ble Judge of this Court, awarded compensation for death of the petitioner's husband therein due to electrocution. So also in the case of *M.Gangachalam Vs. State of Tamil Nadu and Others*, another learned Single Judge of this Court awarded compensation for death of daughter of an agricultural coolie due to snapping of an overhead electric line. The learned Judge, in the latter case, relied on the judgment of the Division Bench of this Court in the case of *Chairman, TNEB and Another Vs. Parvathi Ammal and 6 Others [2003 [4] CTC 517]* ; *Nirmal Thirunavukkarasu and Others Vs. TNEB [1984 [97] LW 42]* ; and *K.Sampath @ Chidambaranathan Vs. The Superintending Engineer-I, Puducherry, [2013 W.L.R. 176]*.

(20) It is pertinent to mention here that in the judgments of *Gangachalam and Saroja's case [cited supra]*, the learned Judges found as a fact that the negligence of the Electricity Board was established and therefore, in the absence of any dispute as to the negligence, the learned Judges thought it fit to entertain the writ petitions and granted compensation.

(21) However, in cases where negligence was disputed, the Courts have been guarded in awarding compensation in Writ jurisdiction. We find from an examination of the judgments of the Hon'ble Supreme Court with



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particular reference to the electrocution cases, that the Apex Court in cases where negligence was either admitted or established, awarded compensation. But, in cases where negligence was disputed, did not award any compensation.

(22) In ***Raman Vs. Uttar Haryana Bijili Vitran Nigam Limited and Others [2015 AIR SCW 360]***, the Hon'ble Supreme Court upheld the judgment of the High Court which awarded compensation of Rs.30 lakhs to the parents of a four year old boy who died due to electrocution when came in direct contact with the naked electric wire lying upon the roof of his house. In the said case, the statutory negligence on the part of the respondents therein in not providing the safety measures to see that the live electric wires did not fall on the roof of the building were taken note of while confirming the order of the High Court in granting compensation.

(23) In ***Madhya Pradesh Electricity Board Vs. Shahil Kumari and Others [2002 [2] sCC 162]***, the Hon'ble Supreme Court again granted compensation for death due to electrocution due to snapping of a live wire on the public road. Even in the said case, a finding on negligence was recorded against the Board.

(24) In ***Chairman, GRID Corporation of Orissa Limited and Others Vs. Smt.Sukamani Das and Another*** reported in ***AIR 1999 SC 3412 : 1999 [7] SCC 298***, the Hon'ble Supreme Court framed the following issues:-



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“[1]Can the High Court under Article 226 of the Constitution, award compensation for the death caused due to electrocution on account of improper maintenance of electric wires or equipment by the Tamil Nadu Electricity Board, the appellant ; and

[2]Whether the High Court while exercising jurisdiction under Article 226 of the Constitution appoint an arbitrator under the Arbitration and Conciliation Act, 1996 [New Act] to decide the quantum of compensation and then make the Award of the arbitrator Rule of the Court?’’

and held that:-

‘‘In our opinion, the High Court committed an error in entertaining the writ petition as it was not a fit case for exercising power under Article 226 of the Constitution.....’’

- (25) So also, in ***Shakuntala Devi Vs. Delhi Electricity Supply Undertaking***, reported in ***1995 [2] SCC 369***, the Apex Court, while entertaining a writ petition for payment of compensation under Article 32 of the Constitution, in a case of death by electrocution, observed that *‘‘the question of negligence of officials of the 1st respondent can be properly examined in a suit where correct facts can be established.’’*. In the said case, the Hon’ble Supreme Court directed the respondents therein to make payment of reasonable amount as ex-gratia, exercising its power under Article 142 of the Constitution and that too, because the



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respondents had agreed to that course being adopted. Pertinently, even in the present case, this Court in the writ appeal, had directed the respondent/Board to pay ex-gratia amount of Rs.2,00,000/- to the victim as per the Rules of TANGEDCO.

- (26) In ***S.D.O.Grid Corporation of Orissa Limited and Others Vs. Timudu Oram***, reported in ***AIR 2005 SC 3971 : 2005 [6] SCC 156***, the Hon'ble Supreme Court, while answering the question whether the High Court was justified in exercising its power under Article 226 of the Constitution for awarding compensation to the respondents therein, even though the appellants therein had denied the liability on the ground that the death had not occurred as a result of their negligence, but because of the negligence of the respondents themselves, or an act of God, or an act of some other person, following the judgment in ***Sukamani Das case***, held that the High Court had committed an error in entertaining the writ petition under Article 226 of the Constitution, considering that there were disputed questions of fact regarding negligence and for which, the appellants therein deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet, the wires had snapped because of the circumstances beyond their control or unauthorised intervention of third parties.

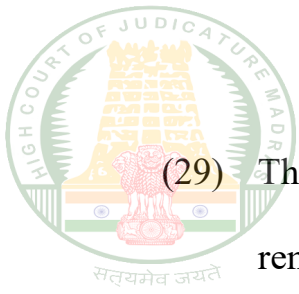
- (27) In ***Tamil Nadu Electricity Board Vs. Sumathy and Others***, the Hon'ble Supreme Court held that the law laid down in ***Sukamani Das case***,



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cannot be understood as laying a law that in every case of tortious liability recourse must be had to a suit. The Apex Court held that when negligence is established on the face of it and an infringement of Article 21 is made out, there would be no bar to proceed under Article 226 of the Constitution since right to life is one of the basic rights guaranteed under Article 21 of the Constitution. Having held so, the Hon'ble Supreme Court also observed that the High Court has some self imposed limitations in exercise of its jurisdiction and therefore, it would not interfere when an equally efficacious alternative remedy is available or when there is an established procedure to remedy a wrong to enforce a right.

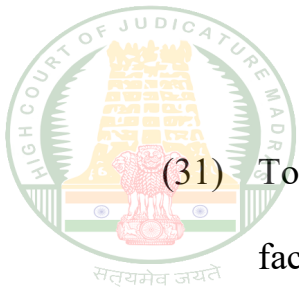
- (28) From the judgments in *Sukamani Das case*, *Shakunthala Devi case*, *Thimudu Oram Case and Sumathy and others' case*, it is clear that where negligence was disputed, the Hon'ble Supreme Court declined to award compensation on the premise that the Electricity Board, deserved an opportunity to prove that it was not negligent in discharge of its duties. We are therefore of the view that, it is not in every case that the normal channel of civil and criminal litigation can be by-passed, since the High Court, in the words of the Apex Court ***“does not act as a proverbial bull in a China shop in exercise of its jurisdiction under Article 226 of the Constitution”***.



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(29) The sum and substance of the aforesaid discussions is that the public law remedy for grant of compensation can be resorted to only when the Human and Fundamental Rights of the citizens under Article 21 is violated and when negligence is either admitted or established. Sometimes, under the factual situations, the principles of *res ipsa loquitor* may also be invoked for awarding compensation under Article 226 proceedings. We are therefore of the considered view that, only when it is established that the State and its organs failed in their requisite duty of protecting the safety of its citizens, the right to claim compensation under public law remedy for violation of the Fundamental Rights arises. When the loss of life is attributable to the State's negligence in taking requisite safety measures, the question of compensation becomes an issue not because of the loss of an individual life, but because of the involvement of the larger public interest of the State's promised safety and dignified living conditions of its citizens.

(30) In the light of the above discussions, we are of the view that the jurisdiction of the High Court under Article 226 of the Constitution to entertain writ petitions for payment of compensation for death due to electrocution, cannot be agitated before a Writ court, where negligence is seriously disputed. Where negligence is seriously the respondent should be given an opportunity to prove that the death did not occur due to their negligence .



(31) To sum up, we are the view that where there are disputed questions of fact emanating out of a clear denial of the negligence, the remedy under Article 226 is not proper and that it is only the Civil Court which will be the proper Forum since only before it, evidence can be led and appreciated by applying the principles of law of evidence.

(32) In fine, the review petitions are ***dismissed***. No costs.

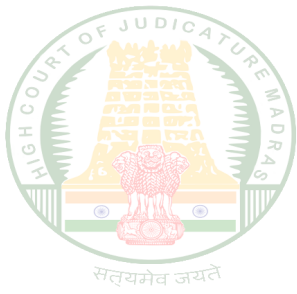
(S.M.S.,J.) (N.M.,J.)
16-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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