

(2014) 02 KL CK 0200

High Court Of Kerala

Case No: R.F.A. No. 510 of 2007 and C.M. Appl. No. 1754 of 2007

Kerala State Electricity Board

APPELLANT

Vs

K.E. Omana

RESPONDENT

Date of Decision: Feb. 6, 2014**Hon'ble Judges:** T.B. Radhakrishnan, J; A. Muhamed Mustaque, J**Bench:** Division Bench

Advocate: C.K. Karunakaran, SC for KSEB, Sri P. Santhalingam (SR.), Sri S. Sharan, SC, K.S.E. Board, Advocate for the Appellant; Thomas Abraham, Sri M.C. Prasanna Kumar, Smt. Merciamma Mathew, Sri K.S. Haridas, Advocates for R1 to 3, Sri George Cherian, Advocate for R6 (Thiruvalla), Smt. P. Santhalingam and Sri S. Sharan, Senior Advs, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Thottathil B. Radhakrishnan, J.

This appeal is filed by the Kerala State Electricity Board, for short, "Board", as against a decree for compensation on account of electrocution, with an application seeking condonation of delay of 567 days.

2. Notwithstanding the fact that we are not satisfied that sufficient cause has been shown to condone the delay, we have looked into the merits of the appeal as well. The alleged electrocution is admitted. Board set up the defence that the electric line broke down due to heavy rain and wind and a plantain had fallen over the electric line which was passing through the property of the deceased resulting in a short circuit. Obviously, the Board dealing with the dangerous substance, electricity, is bound by the doctrine of strict liability on the facts and circumstances of this case. See for support, 2002 ACJ 337 (SC) , [Madhya Pradesh Electricity Board Vs. Shail Kumari and Others](#), and [Varghese and Thressiamma Vs. Kerala State Electricity Board](#). Hence, finding of negligence stands.

3. As regards the quantum of compensation, the court below has looked into the earnings of the deceased, taking into consideration the fact that he was running a

unit called "Model Tyres" and has applied the relevant yardsticks. The wife of the deceased was also found to have suffered loss of consortium.

4. On the totality of the facts and circumstances, we see no ground to interfere with the quantum of compensation fixed. Hence, the appeal fails.

5. For the aforesaid reasons, the C.M. Application is dismissed.

Resultantly, the appeal is rejected. In view of the rejection, refund the court fee paid on the appeal to the appellants.