

GAHC010048182017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6782/2017

BILAYET HUSSAIN
HUSBAND OF GUL NAHAR BEGUM, VILL. KOKILA PART-II, P.O. KOKILA
BAZAR, P.S. ABHAYAPURI, DIST. BONGAIGAON, ASSAM, PIN-783392.

VERSUS

THE STATE OF ASSAM and 6 ORS.
TO BE REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-06

2:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED

REP. BY THE CHAIRMAN
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI-1.

3:THE MANAGING DIRECTOR OF APDCL

BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI-1.

4:THE CHIEF GENERAL MANAGER HRA APDCL

BIJULEE BHAWAN
GUWAHATI-1.

5:THE GENERAL MANAGER
APDCL
BARPETA

DIST. BARPETA
ASSAM.

6:THE CHIEF ELECTRICAL OFFICER
BARPETA ELECTRICAL DIVISION

BARPETA
DIST. BARPETA
ASSAM.

7:THE SUB-DIVISIONAL OFFICER
SORBHOG ELECTRICAL SUB-DIVISION

SORBHOG
DIST. BARPETA
ASSAM

For the Petitioner(s) : Mr. A. R. Bhuyan, Advocate

For the Respondent(s) : Mr. A. Sarma, SC, APDCL
: Mr. S. Baruah, SC

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 29.09.2023

1. The instant writ petition has been filed by the Petitioner seeking a compensation from the APDCL on account of the death of the wife of the Petitioner.

2. A perusal of the writ petition reveals that it has been alleged by the Petitioner that the wife of the Petitioner on 27.07.2015 while walking in front of her residence at around 1:30 PM, suddenly, a high voltage wire fell down from the electricity post adjacent to her residence for which the wife of the Petitioner was electrocuted and accordingly she died. Post the said incident, the brother of the Petitioner lodged an FIR before the Kokila Police Out Post on the basis of

which Kokila W.P. GDE No. 422 dated 27.07.2015 was entered into and thereupon, the said FIR was forwarded to the Abhayapuri Police Station for which the Abhayapuri P.S.U.D Case No.17/2015 was registered.

3. It is the case of the Petitioner that an enquiry was made by the Officer In-charge of the Kokila Police Out Post and the Enquiry Officer found that the wife of the Petitioner died due to electrocution on 27.07.2015 at around 1:30 PM. Thereupon, the Petitioner approached the Respondent Authorities for payment of the compensation on the basis of the Office Memorandum dated 18.12.2013. However, as no compensation was paid, the instant writ petition was filed.

4. It is apparent from the records that the Respondent APDCL Authorities have filed an affidavit-in-opposition denying the allegations made by the Petitioner. It was the specific stand taken by the Respondent APDCL Authorities in their affidavit that the wife of the Petitioner did not die because of a high voltage wire fell down on her from the light post adjacent to her residence resulting in electrocution as stated in the writ petition. It was stated that on 27.07.2015, when the wife of the Petitioner came to fill water in a bucket and touched a hand pump installed within the house premises of the Petitioner, she got electric shock. The hand pump is located near the bathroom within the house premises of the Petitioner. It was further stated that there was leakage of electricity and due to defective wiring, the accident occurred within the premises. Under such circumstances, it is the case of the Respondent APDCL that the Respondent APDCL cannot be saddled with any liability.

5. This Court finds it relevant to take note of the affidavit-in-opposition filed by the Respondent No.6 whereby the enquiry report dated 16.01.2018 was enclosed as Annexure-A. From a perusal of the said enquiry report, it is apparent that the accident which led to the death of the wife of the Petitioner

was on account of electric shock by coming into contact with the live metallic parts of hand pump system. In the said electrical report, it was also mentioned that the Respondent APDCL was nowhere involved.

6. At this stage, this Court finds it relevant to take note of that in terms with Section 57 of the Electricity Act, 2013, there is a scheme formulated by the Assam Electricity Regulatory Commission known as Compensation to Victims of Electrical Accident, 2019 (for short referred to as 'the Regulations of 2019'). From a perusal of the said scheme, it is seen that the APDCL would pay an amount of Rs.4,00,000/- as compensation as mentioned in Schedule-A only when it is the fault of the APDCL.

7. From the materials on record and more particularly from the Electrical Accident Report, it reveals that there was no fault on the part of the Respondent APDCL. Under such circumstance, the question of issuance of a writ in the present facts does not arise for which the instant writ petition stands dismissed.

JUDGE

Comparing Assistant