

GAHC010056072022



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

Case No. : WP(C)/2120/2022

BHAGYA BASUMATARY
W/O. LT. CHANDRA BASUMATARY, VILL. CHAMUAGAON, P.O. AND P.S.
ORANG, DIST. UDALGURI (BTAD), ASSAM, PIN-784114.

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LTD. (APDCL) AND 5 ORS
REP. BY ITS CHIEF GENERAL MANAGER, BIJULEE BHAWAN, PALTAN
BAZAR, GUWAHATI-781001.

2:THE CHIEF ELECTRICAL INSPECTOR

GOVT. OF ASSAM
MAHABHAIRAB BUILDING
CHANDMARI
SOUTH SARANIA
GUWAHATI-781003.

3:THE DY. COMMISSIONER

UDALGURI
BTAD
ASSAM
PIN-784509.

4:THE SUPDT. OF POLICE

UDALGURI
BTAD
ASSAM
PIN-784509.

5:THE CHIEF EXECUTIVE OFFICER (CEO)

MANGALDOI ELECTRICAL CIRCLE
APDCL
DARRANG
PIN-784125.

6:THE SUB DIVISIONAL ENGINEER

MAZBA
P.O. AND P.S. MAZBAT
DIST. UDALGURI (BTAD)
ASSAM
PIN-784507

Advocate for the Petitioner : MR. A MOBARAQUE

Advocate for the Respondent : SC, APDCL

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

17.07.2023

Heard Mr. A. Mobaraque, the learned counsel for the petitioner and Mr. N. Deka, the learned Standing Counsel APDCL as well as Mr. S. Baruah, the learned counsel appearing on behalf of the respondent Nos.2, 3 & 4.

2. The learned counsel appearing on behalf of the respondent Nos.2, 3 & 4 has drawn the attention to the additional affidavit filed on 17.02.2023 by the respondent No.2, i.e., the Chief Electrical Inspector-cum-Adviser, Government of Assam whereby the Electrical Accident Report dated 14.09.2022 has been enclosed.

3. A perusal of the said report dated 19.09.2019 shows that the accident occurred due to lack of appropriate vertical ground clearance in between the public road and bare conductor of the 11 KV over head line drawn along the road as safety Regulations of the Central Electricity Authority. It further stipulates that there was contravention of Regulations 12(1), 12(2) & 58 (2) (ii) of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 on the part of the owner of the aforesaid electric power supply in issue, i.e. the Assam Power Distribution Company Limited (APDCL), by not installing and maintaining the high voltage feeder line drawn along the public road in the manner as to ensure safety of the human beings, animals and property. It has been further stipulated in the said report that there was a contravention of Regulation 63 (1) of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 on the part of Assam Public Works Department.

4. Taking into account the Electrical Accident Report which clearly stipulates that the accident which led to the death of Late Chandra Basumatary was attributable to the respondent APDCL, this Court is of the opinion that the petitioner being the next of the kin of Late Chandra Basumatary would be entitled to the compensation of the amount of Rs.4,00,000/- in terms with the Office Memorandum dated 07.11.2019, wherein it has been stipulated that the amount payable for loss of human life is Rs.4,00,000/-.

5. The learned counsel for the petitioner has also drawn the attention of this Court to a judgment of the Coordinate Bench of this Court dated 03.02.2021 passed in WP(C) No.1921/2018 wherein also there was a

direction for payment of interest upon delay in payment of compensation @ 12% per annum. The learned counsel for the petitioner has also drawn the attention of this Court to the Office memorandum dated 07.11.2019 wherein also it has been mentioned that all claims shall be finally settled within a period of 120 days from the date of occurrence of the electrical incident and delay in payment of the compensation shall result in an additional interest of 12% per annum on the amount from the due date of payment.

6. Taking into account the above, this Court therefore, disposes of the instant writ petition with a direction to the APDCL Authority, i.e. the respondent Nos.1, 5 & 6 to pay the amount of Rs.4,00,000/-to the petitioner along with interest @ 12% per annum w.e.f. 20.12.2019 till payment of the amount to the petitioner.

7. The said amount shall be disbursed to the petitioner within a period of 2 (two) months from the date a certified copy of the instant order is served upon the respondent No.5. The petitioner is directed to serve a certified copy within 15 days from today.

8. With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant