

GAHC010106822022



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

Case No. : WP(C)/3853/2022

TAPAN DAS AND ANR
S/O. KRISHNA DAS, VILL. SATDALA, P.O. AND P.S. HAJO, DIST. KAMRUP
(R), ASSAM, PIN-781102.

2: SHRI ANKUR DAS @ ANKUR JYOTI DAS

S/O. SHRI TAPAN DAS
VILL. SATDALA
P.O. AND P.S. HAJO
DIST. KAMRUP (R)
ASSAM
PIN-781102

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE PRINCIPAL SECRETARY, POWER (ELECTRICITY) DEPTT., D
BLOCK, GROUND FLOOR, JANATA BHAWAN ASSAM SECRETARIAT,
DISPUR, GUWAHATI-06.

2:THE ASSAM STATE ELECTRICITY BOARD

REP. BY ITS CHAIRMAN
BIJULI BHAWAN
PALTANBAZAR
GUWAHATI-01
ASSAM.

3:THE ASSAM POWER DISTRIBUTION COMPANY LTD. (APDCL)

REP. BY ITS CHIEF GENERAL MANAGER
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-01

ASSAM.

4:THE MANAGING DIRECTOR

APDCL
BIJULI BHAWAN
PALTANBAZAR
GUWAHATI-01
ASSAM.

5:THE CHIEF EXECUTIVE OFFICER

GUWAHATI ELECTRICAL CIRCLE-II
APDCL
MALIGAON
GUWAHATI-11
ASSAM.

6:THE SUB-DIVISIONAL OFFICER

HAJO ELECTRICAL SUB-DIVISION
APDCL
DIST. KAMRUP (R)
ASSAM
PIN-781102.

7:THE CHIEF ELECTRICAL INSPECTOR

GOVT. OF ASSAM
HOUSEFED
GUWAHATI
ASSAM.

8:THE SUPDT. OF POLICE

KAMRUP (R)
ASSAM.

9:THE OFFICER IN CHARGE

HAJO POLICE STATION
HAJO
DIST. KAMRUP (R)
ASSAM

Advocate for the Petitioner : MR. S K ROY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 21.06.2023

Heard Mr. S.K. Roy, learned counsel for the petitioners. Also heard Mr. C.K.S. Baruah, learned Govt. Advocate appearing for the respondent nos.1, 7, 8 and 9, and Mr. A. Baruah on behalf of Mr. K.P. Pathak, learned standing counsel for the APDCL.

2. As ASEB is not in existence, the Court is inclined to strike out the name of ASEB (respondent no.2) from the array of parties without disturbing the seriatim of other respondents.

3. The petitioner no.2, on the date of filing of the writ petition, was 19 years of age and while bringing cattle from the paddy field, he came in contact with high voltage 11 KV live wire, which was allegedly hanging from the pole about 5 feet above the ground, and as a result, the petitioner had suffered burn and shock on his right hand from elbow onwards, which resulted in amputation of his right hand from elbow to save his life. The petitioners have alleged negligence on the part of the APDCL authorities for in the electrical accident. As the representation of the petitioner dated 10.02.2022 for compensation did not elicit any response, the present writ petition has been filed under Article 226 of the Constitution of India.

4. The APDCL authorities, who are arrayed as respondent nos.3 to 6 have not filed their affidavit-in-opposition.

5. It appears from the affidavit-in-opposition of the Superintendent of

Police, Kamrup, Guwahati (respondent no.8) that the petitioner no.2 suffered an electrical accident by coming into contact with an 11 KV electric wire and he had suffered major injuries on his head and right hand and was immediately shifted to Hajo CHC, where the doctors referred him to Gauhati Medical College & Hospital, Guwahati for better treatment. However, for better treatment, the family members of the petitioner had shifted the petitioner no.2 to a private hospital at North Guwahati, which was nearer to their residence, and the doctors attending the petitioner no.2 had to amputate his right hand to save his life. As per the said affidavit in respect of that accident, Hajo P.S. Case No. 468/2017 under section 338 IPC was registered, where final report dated 30.06.2017 was submitted.

6. By way of an additional affidavit filed on behalf of the Chief Electrical Officer (respondent no.7), the Deputy Chief Electrical Officer, Govt. of Assam, the report of the Chief Electrical Inspector dated 24.08.2022 has been brought on record. As per the said report, the clearance between the 11 KV overhead conductor and the ground was 5-6 feet at the time of the electrical accident. However, as per eye witnesses, the clearance between the overhead conductor and ground was 4-5 feet and when the Chief Electrical Inspector visited the site, he was informed by the villages that the clearance between the 11 KV overhead conductor and ground was about 5 feet. As per the said Electrical Accident Report, the insufficient clearance from the ground and overhead conductor was the cause of the petitioner no.2 coming in contact with the live bare 11 KV conductor, for which he got electric shock, resulting in his injury. Accordingly, vide the said report, opinion was expressed that the accident had occurred due to contravention of Regulation 12(1) & 58 of the Central Electricity Authority (Measures relating to Safety and Electric Supply)

Regulations, 2010 (in short "2010 Regulations") on part of the APDCL.

7. The learned counsel for the petitioners has produced a copy of AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019 (in short "2019 Regulations"), which was framed under section 181(1) read with section 57(2) and 57(3) of the Electricity Act, 2003, which provides, amongst others, entitlement to compensation to the extent of 60% of Rs.4,00,000/- (Rupees four lakh only) for loss of hand or amputation from 4.5" below tip of olecranon under Sl. No.4 in Part-II of Schedule-A to the said Regulations. The said Regulations also entitle the victim for reimbursement of medical expenses during the period of hospitalization and/or treatment in addition to compensation under Regulation 7 as well as interest @ 12% p.a., if compensation is not paid within 120 days from the date of occurrence. In this regard, by referring to Regulation-8 and 14 of the said 2019 Regulations, it is submitted that it was the duty of the APDCL authorities to assess the quantum of compensation, irrespective of the report of the Chief Electrical Inspector. Therefore, the authorities of the APDCL was required to conduct an inquiry within 15 (fifteen) days from the receipt of report of an electrical accident. Hence, it was submitted that as the report of the electrical accident was made on the date of incident i.e. 03.06.2017, the APDCL authorities was having time till 01.10.2017 i.e. 120 days to pay compensation, failing which, additional interest would be burdened on them.

8. Accordingly, having regard to the report of the Chief Electrical Inspector dated 24.08.2022, whereby the reason for the accident is attributed to the APDCL, taking note of the contempt of compensation, which is enlisted at Sl. No.4 in Part-II of Schedule-A of the 2019 Regulations, the Court is inclined to direct the APDCL authorities, including respondent nos.3 to 6 to pay

compensation to the petitioners to the extent of 60% of Rs.4,00,000/-, (Rupees four lakh only) together with interest @ 12% p.a. as the time has exceed beyond 120 days from the date of occurrence provided under Regulation 20 and to further reimburse the petitioner no.2 the medical expenses incurred, for which the petitioners would have to approach the concerned APDCL authorities with all relevant documents as per the mandate of clause-(i) of Regulation 7 of 2019 Regulations.

9. Insofar as the claim for medical expenses is concerned, it would be open to the APDCL authorities to ascertain the correctness of the claim. The compensation along with interest and reimbursement of medical expenses should be made to the petitioners within a period of 4 (four) weeks from the date of receipt of a certified copy of this order by the respondent no.4. The petitioners shall submit the required documents along with details of bank account and identity proof.

10. This writ petition stands allowed to the extent as indicated above.

11. There shall be no order as to cost.

JUDGE

Comparing Assistant