

GAHC010121722022



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

Case No. : WP(C)/4305/2022

JAMIRAN KHATUN AND 2 ORS
W/O. SHAHANUR ISLAM, VILL. AGMANDIA, P.O. MANDIA, P.S. BAGHBOR,
DIST. BARPETA, ASSAM, PIN-781308.

2: ABU TAHER
S/O. LT. SHAHANUR ISLAM
BEING MINOR REP. BY HIS MOTHER JAMIRAN KHATUN (PETITIONER
NO.1)

3: ABU BAKKAR SIDDIK
S/O. LT. SHAHANUR ISLAM
BEING MINOR REP. BY HIS MOTHER JAMIRAN KHATUN (PETITIONER
NO.1

VERSUS

THE CHIEF GENERAL MANAGER (D), APDCL AND 8 ORS
LAR, BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI-781001.

2:THE GENERAL MANAGER

BONGAIGAON ZONE
APDCL (LAR) BONGAIGAON-783385.

3:THE CHIEF EXECUTIVE OFFICER

BARPETA ELECTRICAL CIRCLE
APDCL (LAR)
BARPETA-781301.

4:THE ASSTT. GENERAL MANAGER

BARPETA ELECTRICAL DIVISION
APDCL (LAR)

BARPETA-781301.

5:THE OFFICER IN CHARGE

BARPETA POLICE STATION
BARPETA-781301.

6:THE DEPUTY COMMISSIONER

BARPETA
PIN-781301.

7:THE CHIEF ELECTRICAL INSPECTOR
CUM ADVISOR.

8:SHAHIDUL ISLAM
VILL. MANDIA
NEAR BDO OFFICE
P.O. MANDIA
P.S. BAGHBOR
DIST. BARPETA-781308.

9:HAKIM ALI

VILL. MANDIA PATHER
P.O. MANDIA
P.S. BAGHBOR
DIST. BARPETA-781308

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 12.06.2023

Heard Mr. A. Rashid, learned counsel for the petitioners, Mr. J.K. Goswami, learned standing counsel for respondent nos. 1 to 4, Ms. S. Sarma, learned Govt. advocate appearing for respondent nos. 5, 6 and 7, Mr. M.

Choudhury, learned counsel for respondent nos. 8 and 9.

2. In brief, the case of the petitioners is that on 16.03.2019 at about 9.00 AM, the husband of petitioner no.1, namely, Shahanur Islam was electrocuted through 11 KV overhead live wire and while he was being treated, he died on the same day at FAAMCH, Barpeta.

3. The husband of the petitioner no.1 and father of minor petitioners nos. 2 and 3, at the time of suffering the accident, was working as a Mason under the contractor, Hakim Ali (respondent no.9) and was engaged in construction of a house of the owner of the building, namely, Shahidul Islam (respondent no.8). The petitioner no.1 lodged an FIR with the Baghbor Police Station on 27.06.2019 and accordingly, Baghbor Police PS Case No. 196/2019 was registered under section 304A/34 IPC. The petitioner no.1 had thereafter approached the Deputy Commissioner, Barpeta for compensation and she was asked to approach the authorities of the APDCL for compensation. The learned counsel for the petitioners has submitted that the owner of the house (respondent no.8) as well as the contractor (respondent no.9) had not provided for any safety measures for workers. The learned counsel for the petitioners also submits that the high voltage overhead power line was very close to the house under construction which came in contact with the deceased and therefore, the APDCL is guilty of negligence. Hence, this writ petition has been filed under Article 226 of the Constitution of India for a direction to the respondent authorities to pay adequate compensation to the petitioners on the death of Shahanur Islam on 16.03.2019 in electricity accident at the house of respondent no.8.

4. Per contra, the learned standing counsel for the APDCL has referred to

the affidavit-in-opposition filed by the Chief Electrical Officer-cum-Advisor (respondent no.7) on 29.04.2023 and by referring to the detailed accident report dated 05.09.2022, has submitted that the categorical finding of the Electrical Inspector (Senior Grade) was to the effect that the husband of the petitioner no.1 came into contact with the 11 KV feeder line and received fatal electric shock. It is also mentioned in the said report that the APDCL authorities were not informed about the construction work being carried out so as to have the power supply isolated. It is also submitted that there is categorical finding to the effect that the accident occurred due to non-compliance of Regulation 64 (1) and 64 (2) of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 on part of the victim.

5. Having regard to the contents of report submitted by the Electrical Inspector (Senior Grade), Govt. of Assam, it is seen that the said authority has exonerated the APDCL of violation/ contravention of any supply regulation. Hence, the Court is of the considered opinion that no liability of paying compensation can be imposed on the APDCL authorities.

6. Accordingly, this writ petition stands dismissed.

7. Be that as it may, as it is projected in the detailed accident report submitted by the Electrical Inspector (Senior Grade) dated 05.09.2022, that the respondent no.9 had engaged the deceased in the construction of the house of respondent no.8, the dismissal of the writ petition shall not be a bar for the petitioners to approach either the Civil Court or the jurisdictional Commissioner, Employees' Compensation for having the claim for compensation adjudicated against the private respondent nos. 8 and 9, if so advised.

8. This writ petition was filed on 17.06.2022 and therefore, it is provided that the period spent by the petitioner in this Court from 17.06.2022 till today shall be liable to be excluded from computation of limitation, if there be any, in approaching the Civil Court or the jurisdictional Employees' Compensation Commissioner, as the case may be, as time spent before this Court, which does not have original jurisdiction to entertain claim for employees compensation and/ or damages.

9. There shall be no order as to cost.

JUDGE

Comparing Assistant