

GAHC010129572017



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

Case No. : WP(C)/3000/2017

FAJIRAN BEGUM and 3 ORS.
W/O- LATE RUSTAM ALI

2: KHALEK ALI
S/O- LATE RUSTAM ALI

3: KHAIRUL HUSSAIN
S/O- LATE RUSTAM ALI

4: YUSUF ALI
ALL ARE R/O- VILL NO.1
TITKURI
P.O- TITKURI
DIST- KAMRUP
ASSAM

VERSUS

THE ASSAM POWER DISTRIBUTION CO. LTD. and 4 ORS.
REPRESENTED BY THE MANAGING DIRECTOR, BIJULEE BHAWAN,
GUWAHATI-1

2: THE CHIEF GENERAL MANAGER DIST
LAR
BIJULEE BHAWAN
GUWAHATI-1

3: THE ASSISTANT GENERAL MANAGER
RANGIA ELECTRICAL DIVISION
LAR
APDCL
RANGIA

4: THE SUB-DIVISIONAL ENGINEER

RANGIA ELECTRICAL SUB- DIVISION-II
APDCL
RANGIA

5:SENIOR ELECTRICAL INSPECTOR
ASSAM
MAHABHAIRAB BHAWAN
RAJGARH ROAD
GUWAHAT

Advocate for the Petitioner : MS.K BORA

Advocate for the Respondent : MR. K D SARMA (SC, APDCL) R-1 TO 4

Linked Case : WP(C)/3011/2017

REHANA AKHATERA
W/O. LT. KHAIRUL ALI
R/O. VILL. NO. 1 TITKURI
P.O. TITKURI
DIST. KAMRUPR
ASSAM.

VERSUS

THE ASSAM POWER DISTRIBUTION CO. LTD. and 4 ORS.
REP. BY THE MANAGING DIRECTOR
BIJULEE BHAWAN
GUWAHATI-1.

2:THE CHIEF GENERAL MANAGER DISTRIBUTION
LAR
BIJULEE BHAWAN
GUWAHATI-1.

3:THE ASSTT. GENERAL MANAGER
RANGIA ELECTRICAL DIVISION
LAR
APDCL
RANGIA.

4:THE SUB-DIVISIONAL ENGINEER
RANGIA ELECTRICAL SUB-DIVISION-II
APDCL
RANGIA.

5:SENIOR ELECTRICAL INSPECTOR

ASSAM.
MAHABHAIRAB BHAWAN
RAJGARH ROAD
GUWAHATI.

Advocate for : MS.P R BARUAH
Advocate for : SC APDCL appearing for THE ASSAM POWER DISTRIBUTION CO.
LTD. and 4 ORS.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

JUDGMENT & ORDER [ORAL]

Date : 16-02-2023

As the issues involved in the two writ petitions are connected with the same incident and inter-related and the respondents impleaded are the same, both the writ petitions are taken up together for consideration on being agreed by the learned counsel for the parties. The common subject-matter in the two writ petitions is death of two victims in one incident stated to have occurred due to electrocution and directions have been sought for in these two writ petitions, filed under Article 226 of the Constitution of India, to the respondent APDCL authorities to grant adequate compensation for such deaths.

2. **[W.P.[C] no. 3000/2017]** : The writ petition, W.P.[C] no. 3000/2017 has been preferred by the 4 [four] petitioners together. The petitioners have stated that they are the legal representatives of one Rustam Ali. The petitioner no. 1 was the wife of Rustam Ali and the petitioner nos. 2, 3 & 4 were sons of Rustam Ali, since deceased. The petitioners have contended that Rustam Ali died in an electrical accident occurred on 21.10.2015, having come in contact with a live electric wire.

2.1. **[W.P.[C] no. 3011/2017]** : The sole petitioner in the writ petition, W.P.[C] no. 3011/2017 has stated that she is one of the legal representatives of one Khairul Ali, since deceased, as she was the wife of Khairul Ali. The petitioner has contended that Khairul Ali also died in the same electrical accident, occurred on 21.10.2015, having got electrocuted through the same live electric wire. The petitioner has stated that Khairul Ali apart from the

petitioner, had left behind two minor sons, aged about 11 years and 6 years respectively, as his legal representatives.

2.2. The petitioners in both the writ petitions have further asserted that the two deceased persons – Rustam Ali and Khairul Ali – were the sole breadwinner for their respective families.

3. The relevant events, in brief, leading to the institution of these two writ petitions are stated together as follows :-

3.1. The pleaded case of the petitioners is that on 21.10.2015, Khairul Ali was doing some cleaning works near an electric post in front of his house located at Village – Titkuri no. 1, Police Station – Rangia, District – Kamrup [Rural]. A bare live electric wire was hanging near the electric post closeby of which Khairul Ali was doing the cleaning works. It is contended that Khairul Ali somehow came in contact with the bare live electric wire and he received electric shock. At that point of time, Rustam Ali saw Khairul Ali and without knowing that Khairul Ali had come in contact with a bare live electric wire, came near Khairul Ali. By grabbing Khairul Ali, Rustam Ali tried to drag him away with the intention to save Khairul Ali's life. When Rustam Ali made such attempt, he also got electrocuted. It is further stated that both the Khairul Ali and Rustam Ali met instantaneous deaths at the spot.

3.2. In the writ petition, W.P.[C] no. 3000/2017, the petitioners have claimed that the petitioner no. 3 had submitted an application before the respondent no. 3 on 26.10.2015 seeking adequate compensation in respect of the death of Rustam Ali, resulting from the electrical accident, occurred on 21.10.2015. In the writ petition, W.P.[C] no. 3011/2017, the petitioner has also claimed in similar manner that she submitted a representation before the respondent no. 4 seeking adequate compensation in respect of the death of Khairul Ali, resulting from the same electrical accident.

3.3. The prime contention of the petitioners is that the two victims met their death in the electrical incident on 21.10.2015 due to fault and negligence, solely attributable to the respondent APDCL authorities and as such, the petitioners are entitled to receive adequate

compensation.

4. I have heard Ms. P.R. Baruah, learned counsel for the petitioners; Mr. S. Banik, learned Standing Counsel, APDCL for the respondent nos. 1 – 4; and Mr. C.K.S. Baruah, learned Junior Government Advocate, Assam for the respondent no. 5 in both the writ petitions.

5. Ms. Baruah, learned counsel for the petitioners has reiterated the cases of the petitioners in the manner pleaded in the writ petitions. Referring to an Electrical Accident Enquiry Report submitted by the respondent no. 5, Ms. Baruah, learned counsel for the petitioners has submitted that there were no fault on the parts of the two victims in the electrical accident which resulted into their instantaneous deaths and the same is evident from the Electrical Accident Enquiry Report, which was submitted after due enquiry.

6. Mr. Banik, learned Standing Counsel, APDCL has submitted that no fault or negligence in respect of the alleged electrical accident was attributable to the respondent APDCL authorities because the Galvanized Iron [GI] wire by which the two victims were electrocuted, was cut at the end of an electricity meter installed in the house of one Sri Moinul Hoque. The victims had indulged themselves in the act of jungle clearance near an electric post wherefrom a live electric wire, visible to the naked eyes, was hanging and thus, it is evident that there was lack of reasonable care and caution on their parts.

7. In the counter-affidavit filed by the respondent APDCL authorities, it has been averred that the Sub-Divisional Engineer, Rangia Electrical Sub-Division – II, APDCL Rangia under whose territorial jurisdiction the electrical accident had occurred, came to know from informal sources that in the area in question, there are few hooking connections connected to the electric post nearby which the accident had occurred. Due to unauthorized activities of the some persons there, the Galvanized Iron [GI] wire of the service connection came in contract with the Low Tension [LT] line wire. It has been contended that the victims were indulging in activities of jungle cutting near the electric post without any intimation to the respondent APDCL authorities. It is stated that one of the victims viz. Rustam Ali while cutting jungle somehow came into contact with the live electric wire and got electrocuted. Seeing Rustam

Ali got electrocuted, his brother, Khairul Ali tried to rescue Rustam Ali and also got electrocuted. The fact of registration of the U.D. Case at the Rangia Police Station has been admitted by the respondent APDCL authorities in their counter affidavit.

8. Mr. Baruah, learned Junior Government Advocate, Assam has submitted that on being reported about the electrical accident, the office of the Chief Electrical Inspector-Cum-Adviser, Assam caused an enquiry into the electrical accident and submitted an Electrical Accident Enquiry Report on 09.08.2017 recording its findings.

9. I have duly considered the learned counsel for the parties and have also perused the materials brought on record by the parties through their respective pleadings.

10. The incident resulting into the deaths of Khairul Ali and Rustam Ali was immediately reported to the Officer In-Charge, Rangia Sadar Police Station by one Sri Noor Islam by lodging a First Information Report [FIR]. On receipt of the FIR, the Officer In-Charge, Rangia Police Station registered a case of unnatural death as Rangia Police Station U.D. Case no. 34/2015 on 21.10.2015. The dead bodies of Rustam Ali and Khairul Ali were sent to the Gauhati Medical College & Hospital [GMCH], Guwahati for post-mortem examination on 22.10.2015. The post-mortem examinations on the dead bodies of Rustam Ali and Khairul Ali were performed at the GMCH on 22.10.2015. As per post-mortem examination report of Rustam Ali, the death was due to syncope due to ventricular fibrillation as a result of ante-mortem electrocution and the time period since death was reported 24 hours to 36 hours. As per post-mortem examination report of Khairul Ali, the death was due to syncope as a result of ventricular fibrillation following ante-mortem electrocution injury nos. 1, 2 & 3, which were reportedly caused by blunt force impact and the approximate time period since death was reported 24 hours to 36 hours.

11. In a Report submitted by the Officer In-Charge, Rangia Police Station on 05.02.2016, it is reported that during investigation of Rangia Police U.D. Case no. 34/2015 registered on 21.10.2015, it has been found that at about 11-00 a.m. on 21.10.2015, Khairul Ali was doing some work near an electric post located at Village - Titkuri no. 1. It is further reported that a

bare electric wire was hanging near the electric post and Khairul Ali touched the wire. As soon as Khairul Ali touched the wire, he got electrical shock and he was vibrated. At that point of time, Rustam Ali went near Khairul Ali and caught Khairul Ali. As a result, Rustam Ali also got electrical shock. After some time, both of them died. The dead bodies of the victims were then sent to the GMCH for post-mortem examination. The Report of the Officer In-Charge, Rangia Police Station has also referred to the Post-Mortem Examination Reports of the said two deceased persons.

12. From the case papers, it further transpires that the Sub-Divisional Engineer, Rangia Electrical Sub-Division – II, APDCL, Rangia had forwarded the applications submitted by the petitioners to the Assistant General Manager, Rangia Electrical Division, LAR, APDCL, Rangia for information and necessary action. The Circle Officer, Rangia Revenue Circle had also submitted a Report to the Sub-Divisional Officer [Civil], Rangia on 05.11.2015 reporting that the 2 [two] deceased persons viz. Rustam Ali and Khairul Ali died due to electrocution on 21.10.2015 and both of were sole breadwinners for their respective families. The Report also mentioned that Rustom Ali had left behind his wife, three sons and one daughter as his legal representatives whereas Khairul Ali had left behind his wife, one son and one daughter as legal representatives.

13. The electrical accident was also reported to the Chief Electrical Inspector-Cum-Advisor [the respondent no. 5] and on being so reported, the respondent no. 5 caused an enquiry into the electrical accident. On completion of the enquiry, the respondent no. 5 had submitted an Electrical Accident Enquiry Report. From the Electrical Accident Enquiry Report, annexed to the affidavit-in-opposition of the respondent no. 5, it is found that the enquiry was conducted the respondent no. 5 in exercise of the authority vested in him under Section 161 of the Electricity Act, 2003. While conducting the enquiry, the Deputy Chief Electrical Inspector was assisted by an Electrical Inspector. In the course of enquiry, participation of the respondent no 4 was ensured. The Electrical Accident Enquiry Report was prepared on the basis of the detail electrical accident report, the Post-Mortem Examination Reports and the statements of eye-witnesses recorded during the course of enquiry. With regard to the circumstances which led to the accident, it has been reported that on the date of the incident, that is, on

21.10.2015, the service connection wire of the premises of one Sri Moinul Hoque, a resident of Village – Titkuri no. 1 with Consumer no. 078000023082, was cut along with the Galvanized Iron [GI] wire from the electricity meter of his residence without information to and taking permission from the concerned respondent APDCL authorities. Then, the GI wire of the service connection remained hanging from the top of the electric post from where the service connection was provided. At that stage, the GI wire of the service connection probably came into contact with the live conductor of the overhead line, because of deviation of the GI wire from its earlier horizontal position the way overhead service connection wire ought to have existed. As a result, the GI wire of the service connection became live. It was in that situation when Rustam Ali somehow came into contact with the live hanging GI wire he got electrocuted due to non-functional status of the protective device. Immediately thereafter, Khairul Ali also got electrocuted when he tried to rescue Rustam Ali.

13.1. The Electrical Accident Enquiry Report has further reported contraventions on the part of the respondent APDCL authorities and the consumer, Sri Mainul Hoque. According to the Electrical Accident Enquiry report, there was contravention of Regulation 35[3][ii] of the Central Electricity Authority [Measures Relating to Safety and Electric Supply] Regulations, 2010 on the part of the respondent APDCL authorities. As per Regulation 35[3][ii], a circuit breaker of adequate rating is required to be installed on the secondary side of all transformers, installed in or after the year 2000, It has further provided that for suppliers' transformers of capacity below 1000KVA, a linked switch with fuse or circuit breaker of adequate rating is required to be installed on the secondary side. As regards the Consumer [Sri Moinul Hoque], the Electrical Accident Enquiry Report has reported contraventions of Regulation 13[3], Regulation 13[4] and Regulation 35 [8] of the Central Electricity Authority [Measures Relating to Safety and Electric Supply] Regulations, 2010.

14. Section 161 of the Electricity Act, 2003 has prescribed that if any accident occurs **inter alia** in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss actually caused

by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such authorities as the appropriate Government may by order direct. The Electrical Inspector is empowered to inquire as to the cause of any accident affecting the safety of the public, which may have occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity. The phrase, 'such person' appearing in the said provision is the licensee and in the present case, it is the APDCL.

14.1. As per sub-section [3] of Section 161, every Electrical Inspector or other person holding an inquiry under sub-section [2] shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector is legally bound to do so. Sub-section [2] of Section 162 has provided for an appeal which shall lie from a decision of a Chief Electrical Inspector or an Electrical Inspector to the Appropriate Government or to an Appropriate Commission, as the case may be, if anyone is aggrieved by the decision.

15. By a letter bearing no. MD/APDCL/Law Cell/60/2017/49 dated 02.02.2023 of the Assistant General Manager [Law], APDCL, Bijulee Bhawan, Guwahati-1 while reiterating the averments made in the counter affidavits of the respondent APDCL authorities, it has been intimated that the respondent APDCL authorities have not preferred any appeal under Section 162[2] of the Electricity Act, 2003 against the Electrical Accident Enquiry Report submitted by the respondent no. 5 in connection with the two victims under reference. It has also been informed that a linked switch/circuit breaker has been installed in the transformer in the meantime and also the surroundings of the transformer have been properly fenced.

16. In the cases in hand, the causes leading to the accident resulting into the death of the two victims have been enquired into by the statutory authority, empowered under Section 161 of the Electricity Act, 2003 to enquire into such kind of electrical accident and after enquiry, the statutory authority has submitted the Electrical Accident Enquiry Report. The Electrical Accident Enquiry Report has adverted to the factual backgrounds which led to the

electrical accident and the contraventions that had occurred at the time of the electrical accident resulting into the death of the two victims. During the enquiry, the place of the electrical accident was visited, the witnesses were examined and the relevant documents including the Post-Mortem Examination Reports, were taken into consideration. The concerned authority under whose territorial jurisdiction the electrical accident had occurred i.e. the respondent no. 4 had also participated in the enquiry. From a reading of Regulation 35[3][ii], it can be gathered that a duty is cast upon the licensee to install a circuit breaker of adequate rating on the secondary side of all transformers, installed in or after the year 2000. As the Electrical Accident Enquiry Report had reported contravention of Regulation 35[3][ii] of the part of the licensee, it is, therefore, clear that the said contravention is one of the prime reasons resulting into the electrical accident under reference on 21.10.2015.

17. The concept of strict liability is well known. Under the concept of strict liability, one party is legally responsible for the consequences resulting from an activity even in the absence of fault or negligence. In essence, as per the concept liability, a party will be held responsible for its actions, without the other party who had suffered, having to prove the fault or negligence on the part of the first party. When a person/party is involved in inherently dangerous or hazardous activities, then such person/party may be held liable if any other person/party is injured because of such activities, even if the first person/party had taken necessary pre-cautions and followed requisite safety requirements.

18. From the facts emerged from the pleadings of the parties and the Electrical Accident Enquiry Report which has not been challenged, it is an admitted position that on the date of the incident [21.10.2015], one of the two victims were engaged in cutting jungle at a place near his residence and at his village named Titkuri No. 1. At that point of time, he came in contact with a live electric wire which was hanging from an electric post. As soon as the said victim came in contact with the live electric wire, he got electrocuted. Finding him in an electrocuted condition, the other victim came near him and tried to drag him away in order to rescue him and as a result, the second victim also got electrocuted. Both the victims met instantaneous death. The doctors who performed the post-mortem examination, had reported that the cause of deaths of the both the victims was syncope as a result of ante-mortem

electrocution. Nothing have been brought on record to establish that the Electrical Accident Enquiry Report had occurred due to any fault attributable on the part of the two victims. The provisions of Regulations, 2010 are found to have been contravened by the supplier of electricity i.e. the respondent APDCL authorities as well as one third-party.

19. In **M.P. Electricity Board vs. Shail Kumari and others**, reported in **[2002] 2 SCC 162**, the facts were that a live wire got snapped and fell on the public road which was partially inundated with rain water. Not noticing that wire, a cyclist while returning home at night rode over the wire which snapped him and he was instantaneously electrocuted. A claim for damages made by the dependents of the deceased was resisted by the appellant State Electricity Board on the ground that the electrocution was due to the clandestine pilferage committed by a stranger unauthorizedly siphoning the electric energy from the supply line. It has been observed that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. The Hon'ble Supreme Court of India has observed that if the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to its private property and that electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps. Even assuming that all such measures have been adopted, the Hon'ble Supreme Court has observed that a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very

nature of such activity. The liability cast on such person is known, in law, as 'strict liability'.

20. The principle of strict liability has been considered by a Division Bench of this Court in **Kiron Das vs. State of Assam and others**, reported in [2014] 5 GLR 617. It has been observed therein that normally as a general rule, claims of compensation based on tortious liability are decided by way of private law remedy in the civil court of competent jurisdiction. But in a case of loss suffered because of admitted negligence in the discharge of statutory duty by a public authority, there can be no bar to invoke the public law remedy and for a writ court to entertain a claim of compensation for such loss. Considering the public character of the duties carried out by the erstwhile ASEB and its successor companies, it cannot escape from the adverse consequence which may arise or occur in the discharge of its duties by applying the principle of strict liability. Examining the concept of strict liability and the decisions rendered by the Indian Courts including the Hon'ble Supreme Court, the Division Bench has observed that the concept of strict liability focuses on the nature of the defendant's activity rather than on any negligence. There are many activities which are so hazardous that it may constitute a danger to the person or property of another. The principle of strict liability is based on the proposition that one who undertakes such activities has to compensate for the damage caused by him irrespective of any fault on his part. Thus, in a case where the principle of strict liability applies, the party undertaking such activities has to pay damages for the injury caused to the victim even though the party may not have been at any fault.

21. In the fact situation obtaining in the cases in hand and having regard to the concept of strict liability, elaborately expounded by the decision in **Shail Kumari** [supra] and **Kiron Das** [supra], this Court has no hesitation to hold that the respondent APDCL authorities are liable to compensate for the death of the two victims of the electrical accident, occurred on 21.10.2015, referred above.

22. At this stage, Mr. Banik, learned Standing Counsel, APDCL has referred to an Office Memorandum dated 18.12.2013 to submit that the said Office Memorandum was holding the field at the time when the electrical accident had occurred. It has been contended on behalf

of the respondent APDCL authorities by Mr. Banik that as the fatal accidents under reference had occurred in the year 2015 the compensation prevailing at the time will be payable to the victims, if it is found to have occurred due to the fault on the part of the respondent APDCL authorities. As this Court has already reached a finding that the respondent APDCL authorities are liable to compensate the victims, the respondent APDCL authorities are responsible for disbursement of adequate compensation.

23. The Board of Directors of the respondent APDCL authorities by the Office Memorandum dated 18.12.2013 had provided different quantum of compensation in respect of victims in fatal electric accidents, who were not in the company employment. In the Office Memorandum dated 18.12.2013, a detailed procedure was also laid down in respect of claims for compensation. At a later point of time, in supersession of the Office Memorandum dated 18.12.2013, another Office Memorandum came to be issued on 25.09.2017 where a uniform rate of compensation was prescribed. Subsequently, by a Notification dated 05.08.2019, the Assam Electricity Regulatory Commission [AERC] had notified the AERC [Compensation to Victims of Electric Accidents] Regulations, 2019 where a detailed procedure has again been laid down as regards electric accidents and quantum of compensation payable for loss of human life/animals, etc. and thereafter, an Office Memorandum dated 07.11.2019 has also been issued to that effect.

24. Having gone through the Office Memorandum dated 18.12.2013; the Office Memorandum dated 25.09.2017; and the Office Memorandum dated 07.11.2019, it is found that the amounts of compensation in respect of fatal accidents have undergone changes. As per the Office Memorandum dated 18.12.2013, the compensation payable in respect of a victim up to 20 years of age was Rs. 1.50 lakh. The amount of compensation, as per the Office Memorandum dated 25.09.2017, was at a uniform rate of Rs. 2.50 lakh irrespective of the age of the victim and the said uniform rate of compensation had come into force w.e.f. 01.04.2017. As per the Office Memorandum dated 07.11.2019, the AERC has notified the AERC [Compensation to Victims of Electrical Accidents] Regulations, 2019 providing for a detailed procedure for intimation of an electrical accident, conduct of enquiry and submission of its report along with the quantum of compensation payable for loss of human life/animal

and also injury to human, where the accident is attributable to the fault/negligence of APDCL authorities. The procedure prescribed in all the above Office Memoranda had/has mandated that it was/is incumbent on the part of the respondent APDCL authorities to settle the claims of the fatal electrical accidents within a prescribed period of time from the date of receipt of information about the same on the basis of the documents/records indicated therein.

25. The two writ petitions were preferred in the year 2017. From the facts that have emerged from the above in respect of the electrical accident, the respondent no. 5 had submitted Electrical Accident Enquiry Report on 09.08.2017 in respect of the electrical accident that occurred on 21.10.2015. Thus, it is evident that the claims in respect of the two fatal electrical accidents have not been settled expeditiously within the time period, as indicated in the Office Memoranda, referred above. While the Office Memorandum dated 18.12.2017 had prescribed the period of settlement as 60 [sixty] days, the Office Memorandum dated 07.11.2019 has prescribed a period of 120 [one hundred twenty] days as the period of settlement from the date of occurrence of the electrical accident.

26. As there is delay on the part of the respondent APDCL authorities in settlement of the claims of the petitioners, this Court does not find any merit in the submission advanced on behalf of the respondent APDCL authorities as regards the quantum of compensation payable with regard to the Office Memorandum prevailing at that point of time. The principle that can be culled out from the decisions of the Hon'ble Supreme Court of India in **Rathi Menon vs. Union of India**, reported in [2001] 3 SCC 714, and **N. Parameswararn Pillai and another vs. Union of India and another**, reported in [2002] 4 SCC 306, is that relevance of date of incident is that the right to claim is acquired on such date and the compensation is to be assessed as per rules prevailing at the time of making the determination. Upon consideration of the factors like the purport and object behind the grant of such compensation under the principle of strict liability; the need for immediate payment of such compensation; the silence about the matter of intimation of the electrical accident; delay in completion of enquiries into the electrical accident with no fault found attributable on the petitioners for such delay; the rise in the cost of living index since the date of the deaths of the victims, etc., this Court is of the considered view that it is the compensation amount

which is payable as on date of making the determination, shall be paid to the Next of Kin [NoK] of the victims in the present cases. The Office Memorandum dated 07.11.2019 has prescribed an amount of Rs. 4,00,000/- for loss of human life. It is further prescribed that in the event a claim is not settled within a period of 120 [one hundred and twenty] days from the date of occurrence of the electric accident, the delay in payment of compensation shall result in an additional interest of 12% per annum on the amount from the due date of payment. Interest is compensation for forbearance or detention of money. Having due regard to the factual situations obtaining in the present two cases and in view of grant of above compensation amount, this Court deems it proper to grant interest @ 12% per annum w.e.f. 16.05.2018 i.e. the date of submission of the Electrical Accident Inquiry Report by of the Chief Electrical Inspector. Accordingly, the respondent APDCL authorities are directed to make payment of a compensation of Rs. 4,00,000/- each to the petitioners in both the writ petitions along with an interest @ 12% per annum on the said amount with effect from 09.08.2017 till the date of payment and the same shall be paid within a period of 2 [two] months from the date of receipt of a certified copy of this order by the respondent APDCL authorities from the petitioners.

27. With the observations made and directions given above, these two writ petitions stand allowed to the extent indicated above. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant