

GAHC030003502023



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

Case No. : WP(C)/80/2023

Vanlaltawmpuii (Minor) r/b her father Sh. Lalramsanga
R/o Saikhawthlir Venglai
Mamit District, Mizoram

VERSUS

The State of Mizoram and 6 Ors.
R/b Chief Secretary to the Government of Mizoram, Aizawl

2:The Secretary
Power and Electricity Department
Govt. of Mizoram

3:The Engineer-in-Chief
Power and Electricity Department
Govt. of Mizoram

4:The Chief Engineer
Power and Electricity Department
Govt. of Mizoram

5:The Superintendent Engineer
Power and Electricity Department
Govt. of Mizoram

6:The Executive Engineer
Power and Electricity Department
Govt. of Mizoram

7:The Sub-Divisional Officer
Power and Electricity Department
Govt. of Mizora

Advocate for the Petitioner : Mr Samuel Vanlalhriata Chhangte

Advocate for the Respondent : Linda L. Fambawl, Addl. AG/GA, Mizoram for R1-7

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER**

Date : 13-12-2023

Heard Mr. Samuel Vanlalhriata Chhangte, learned counsel for the petitioner along with Mrs. H. Lalmalsawmi, learned Government Advocate for the State respondents.

2. This writ petition filed under Article 226 of the Constitution of India is to direct the respondents to award compensation to the petitioner due to the negligence of the respondents in not maintaining the safety requirements of a transformer as required by the Electricity Act, 2003, which resulted in electrocution of the petitioner resulting in the petitioner suffering 60% Locomotor physical disability.

3. The learned counsel for the petitioner submits that the facts of the case in a nut shell is that the petitioner, who is aged about 7 years and represented by her father in the instant writ petition, while playing with her friends at Saikhawthlir Venglai in the District of Mamit, came into direct contact with an exposed live part of a transformer. As a result, the petitioner got electrocuted and sustained severe injury on the left arm which had to be completely amputated. The petitioner had incidentally suffered grievous electric burns extensively all over her body. The petitioner was immediately rushed to the

Aizawl Civil Hospital for medical treatment on 02.01.2021, wherein she was operated on 05.01.2021 and her left arm had to be amputated. Because of the electrocution and amputation of the left arm of the petitioner, the family of the petitioner had incurred huge expenditure and the petitioner has been rendered as Locomotor disabled person to the extent of 60%. The Disability Certificate to that effect has also been issued by the Medical Authority, Mamit, Mizoram on 02.11.2021. A legal notice under Section 80 was issued to the State respondents on 09.02.2023. However, no steps have been taken for compensation of the petitioner in spite of the anguish and suffering faced by the petitioner, who was only 7 years at the time of the unfortunate incident.

4. The learned counsel submits that the respondents have failed to follow the safety provisions under Section 53 of the Electricity Act, 2003 nor have the provisions under Regulations 12, 18 & 49 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 been followed. The learned counsel for the petitioner submits that because of the negligence of the respondents, the petitioner is now forced to live the rest of her life with 60% Locomotion Disability.

The learned counsel also submits that because of the negligence of the respondents, the petitioner may be given compensation amounting to Rs. 45,00,000/- (*Rupees forty five lakhs*) only for the unfortunate electrocution. The learned counsel has justified the said amount by stating that Rs. 10,00,000/- (*Rupees ten lakhs*) only be towards loss of companionship, life amenities/pleasures and happiness, Rs. 10,00,000/- (*Rupees ten lakhs*) only towards pain and suffering, mental distress, trauma and discomfort and inconvenience, Rs. 10,00,000/- (*Rupees ten lakhs*) only towards loss of expectation of life (shortening of normal longevity), Rs. 5,00,000/- (*Rupees five*

lakhs) only towards loss of marriage prospects, Rs. 5,00,000/- (*Rupees five lakhs*) only towards medicine and hospital expenses and Rs. 5,00,000/- (*Rupees five lakhs*) only towards future medical expenses. The learned counsel has relied on the decision of the Apex Court in *State of Himachal Pradesh & Ors. Vs. Naval Kumar alias Rohit Kumar*, reported in (2017) 3 SCC 115 and the decision of a Co-ordinate Bench of this Court in WP(C) No. 89/2022 dated 09.02.2023 in *Vanlalhlani (Minor) r/b her mother C. Lalchawimawii Vs. State of Mizoram & 4 Ors.*

5. Mrs. H. Lalmalsawmi, learned Government Advocate, on the other hand has strongly objected to the grant of compensation, as prayed for. She submits that the authenticity of the letter issued by the President, Village Council/Court, Mamit District dated 03.11.2021 is questionable and needs to be proved. She also submits that the Police Report said to be made by the Investigating Officer, S.I. R. Lalhmangaihzualla, Zawlnuam Police Outpost, Mamit District is not dated and therefore, needs to be proved before the Trial Court. The learned Government Advocate has also brought to the notice of this Court that, in the legal notice served to the respondents, the petitioners had claimed only Rs. 30 lakhs as compensation for the unfortunate accident met by her, while in the instant writ petition the claim is for 45 lakhs and therefore, the claim made by the petitioner is not reliable.

6. Having heard the submissions made by the learned counsels for both the parties and on careful perusal of the documents placed on record, this Court finds that it is an undisputed fact that the petitioner Vanlaltawmpuii, r/b her father Sh. Lalramsanga, is a minor, who was electrocuted accidentally on 02.01.2021, when she was aged about 7 years by coming into direct contact with an exposed live part of the transformer. It is also an undisputed fact that

the petitioner suffered grievous injury which resulted in the amputation of her left arm resulting in her being 60% permanently disable. The Department of Empowerment of Persons with Disability, Ministry of Social Justice and Empowerment, Government of India has also issued a Disability Certificate, wherein it has been certified that the petitioner has a case of Locomotor Disability which has caused her 60% permanent disability.

7. This Court finds that the objections raised by the State respondents that the authenticity of the Village Council letter dated 03.11.2021 and the Police Report made by the Investigating Officer, S.I. R. Lalhmangaihzualla, Zawlnuam Police Outpost, District Mamit are questionable are not substantiated with any reasons.

8. A perusal of the mentioned police report shows that it has been certified that on 05.01.2021 at around 10:00 AM, a W/FIR was submitted by Sh. Lalramsanga, 50 years to the effect that on 02/01/2021 at around 10:30 AM, his daughter, Laltawmpuii, 7 years was shocked by an electric transformer at Saikhawthlir. The injury sustained by her was so severe that her arm had to be completely amputated. Hence, Zawlnuam OP GDE No. 45@ 10:00 AM dated 05.01.2021 entry and was duly investigated into. During investigation, the PO was visited and carefully inspected. Witnesses were examined. It was learnt that the fence of the transformer was old and that children can easily climb and crawl inside the transformer and as such, Laltawmpuii was shocked by the electric current. She was then evacuated to Aizawl Civil Hospital for medical treatment.

9. The letter of the President, Village Council/Court, Saikhawthlir, Mamit District also states as follows:-

“Laltawmpuii D/o Lalramsanga on 2nd of January, 2021 at around 10:30 a.m was unfortunately electrocuted by a Transformer and is a resident of our Village and I acknowledge the same.”

10. On perusal of the above two letters, this Court finds that there is no reason as to why the contents of the said letters or the issuance of the two said letters have to be doubted. The Department of Empowerment of Persons with Disability, Ministry of Social Justice and Empowerment, Government of India has also issued a Disability Certificate, wherein it has been certified that the petitioner has a case of Locomotor Disability which has caused her 60% permanent disability as per the guidelines.

11. It is seen that Section 53 of the Electricity Act, 2003 provides as follows:-

“The Authority may, in consultation with the State Government, specify suitable measures for-

(a) Protect the public (including persons engaged in the generation, transmission or distribution or trading) from dangers arising out from the generation, transmission or distribution or trading of electricity, or use of use of electricity supplied or installation, maintenance or use of any electric line or electric plant;

(b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property.”

Regulation 12, 18 & 49 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010, provides as follows:-

‘12. General safety requirements, pertaining to construction, installation, protection, operation and maintenance of electric supply lines apparatus:-

(1) 'All Electric supply lines and apparatus shall be of sufficient rating for power, insulation and estimated fault current of sufficient mechanical strength, for the duty circle which they may be required to perform under the

environmental conditions of installation, and shall be constructed, installed, protected, worked and maintained in such a manner as to ensure safety of human beings, animals and property'.

'18. Danger Notices:

The owner of every installation of voltage exceeding 250V shall affix permanently in a conspicuous position a danger notice in Hindi or English and the local language of the District, with a sign of skull and bones of a design as per IS -2551 on

(a) every motor, generator, transformer and other electrical plant and equipment together with apparatus used for controlling or regulating the same;

(b) all supports of overhead lines of voltage exceeding 650V which can be easily climbed upon without the aid of ladder or special appliances;

(c) luminoustube sign requiring supply, X-ray and similar high frequency installations of voltage exceeding 550V but not exceeding 33kV:

Provided that where it is not possible to affix such notices on any generator, motor, transformer or other apparatus, they shall be affixed as near as possible thereto, or the word 'danger' and the voltage of the apparatus concerned shall be permanently painted on it:

Provided further that where the generator, motor, transformer or other apparatus is within an enclosure one notice affixed to the said enclosure shall be sufficient for the purposes of this regulation.

'49. General conditions as to transformation and control of Electricity:-

(1) (ii) Outdoor sub-stations except pole type sub-stations and outdoor switching stations shall, unless the apparatus is completely enclosed in a metal covering connected with earth, the said apparatus also being connected with the system by armoured cables, be efficiently protected by fencing not less than

1.8 metres in height or any other means so as to prevent access to the electric supply lines and apparatus therein by an undesignated person and the fencing of such area shall be earthed efficiently'."

This Court finds that the State respondents have not claimed that all the safety provisions and guidelines have been strictly followed.

12. In view of the above findings, this Court is of the considered view that the petitioner has a good case to be paid compensation and thus finds that the State respondents are liable to compensate the petitioner for the injury suffered by her due to the electrocution.

13. It is seen that the Apex Court in *State of Himachal Pradesh &Ors. (Supra)* had reduced the compensation awarded by the High Court of Himachal Pradesh from Rs. 1,25,00,000/- (*Rupees one crore twenty five lakhs*) only, to Rs. 90,00,000/- (*Rupees ninety lakhs*) only, being of the view that the compensation awarded by the High Court seems to be a bit on the higher side. The facts of the cited case is similar to the instant case, wherein the minor boy, who was electrocuted was of 8 years of age and the disability caused to the minor was found to be 100% permanent disability since both his arms had to be amputated.

14. In the instant case the petitioner has claimed compensation of Rs. 45,00,000/- under the following grounds:-

(1) *Towards loss of companionship, life amenities /pleasures and happiness* = Rs. 10,00,000/-

(2) *Towards pain and suffering, mental distress, trauma and discomfort and inconvenience* = Rs. 10,00,000/-

(3) *Towards loss of expectation of life (shortening of normal longevity)* = Rs. 10,00,000/-

(4) <i>Towards loss of marriage prospects</i>	= Rs. 5,00,000/-
(5) <i>Towards medicine and hospital expenses</i>	= Rs. 5,00,000/-
(6) <i>Towards future medical expenses</i>	= Rs. 5,00,000/-
Total Compensation Awarded	= Rs. 45,00,000/-

15. On perusal of the above claim, it is seen that no voucher or hospital bills have been enclosed to justify the claim of Rs. 5,00,000/- (*Rupees five lakhs*) only towards medicine and hospital expenses. The medical certificates enclosed have also not indicated that the petitioner is required to undergo any future medical expenses. Thus, this Court finds that there are no documents or evidence to substantiate the claim for an award of Rs. 5,00,000/- (*Rupees five lakhs*) only towards medical expenses and Rs. 5,00,000/- (*Rupees five lakhs*) only, towards future medical expenses. However, there is no denial that the petitioner had undergone medical treatment and this court finds that it would be appropriate if Rs. 3,00,000/- (*Rupees three lakhs*) only, was allowed for medical and hospital expenses. However, the claim for future medical expenses is liable to be rejected. In view of the judgment of the Apex Court in *State of Himachal Pradesh & Ors. (Supra)*, this Court finds no reason to interfere with the other claims and find it appropriate if the compensation of a total of Rs. 38,00,000/- (*Rupees thirty eight lakhs*) only, was paid to the petitioner, who had suffered 60% permanent Locomotor disability due to the respondents not fully and strictly complying with Section 53 of the Electricity Act and Regulations 12, 18 & 49 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010.

16. The State respondents are hereby directed to pay a sum of Rs. 38,00,000/- (*Rupees thirty eight lakhs*) only to the petitioner within a period of 4 (four)

months from the date of receipt of a certified copy of this order. This Court also find it appropriate to direct that if the said compensation is not paid within the time given, it will carry an interest of 6% per annum till the amount is paid. This Court is also of the view that considering the fact that the petitioner is a minor child, a sum of Rs. 15,00,000/- be deposited in a fixed deposit account in a Nationalized Bank, so that the same with interest be utilized when the minor child attain adulthood.

17. Accordingly, WP(C) No. 80/2023 stands disposed of as above.

JUDGE

Comparing Assistant