

GAHC030003582022



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

**Case No. : WP(C)/89/2022**

Vanlalhlani (Minor) r/b her mother C. Lalchawimawii  
R/o Durtlang, Mel-5, Aizawl, Mizoram.

VERSUS

State of Mizoram and 4 Ors.  
Aizawl, Mizoram.     2:The Secretary  
Power and Electricity Department  
Govt. of Mizoram

3:The Engineer-in-Chief  
Power and Electricity Department

4:The Executive Engineer  
Power and Electricity Department

5:The Sub-Divisional Officer  
Power and Electricity Department  
Zuangtui Power Division

**Advocate for the Petitioner** : Mr Samuel Vanlalhriata Chhangte

**Advocate for the Respondent** : Addl. AG/GA, Mizoram for R1-5

**BEFORE  
HONOURABLE MR. JUSTICE SONGKHUPCHUNG SERTO  
ORDER**

**Date : 09-02-2023**

Heard Mr. Samuel Vanlalhriata Chhangte, learned counsel appearing for the petitioner, and also heard Mr. C. Zoramchhana, learned Addl. AG appearing for the State respondents.

**2.** This is a writ petition filed by a child of 13 years through her mother as the guardian praying for payment of compensation for the bodily sufferings she had gone through due to electrocution.

**3.** The undisputed facts and circumstances leading to the filing of this writ petition are as follows: On 22.04.2019, the petitioner, while walking about the roof-top of their house situated at Durtlang accidentally came into contact with an electric line of 11-KV passing through the roof-top of their house and because of that she suffered burns all over her body. Soon after the incident, she was taken to Synod Hospital, Durtlang and treated till 08.05.2019, but since she was not healed properly she was referred to the State Referral Hospital, Falkawn for further treatment and plastic surgery. After the treatment, she was discharged on 29.10.2019; however, she was re-admitted to the same hospital on 07.01.2020 for further treatment, and was discharged on 14.01.2020. But because she was not completely healed, she was once again admitted to the same hospital on 15.02.2020 and was treated till 25.03.2020. Thereafter, in the month of September, as advised by the Doctor who treated her, she was admitted to CARE Hospital, Aizawl on 14.04.2020. As her treatment could not be completed at the same hospital, she was admitted to Greenwood Hospital, Aizawl on 28.09.2020 for flap construction and she

was discharged on 29.09.2020. In the process of her treatment she spent altogether 5 Lakhs, including the money spent on medicines. On being examined by competent Doctors, the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Environment, Government of India issued a Disability Certificate dated 08.04.2022 which certifies that she has suffered 45% permanent disability. After having struggled with the pain and agony and all through the treatment, an FIR was lodged by the mother of the petitioner on 12.10.2021; and accordingly, the Bawngkhawn Police Station investigated the same and on their investigation they found the 11-KV line passing through the roof-top of the petitioner's house loosely hanging and very low. Being aggrieved by the fact that the respondents did not take any positive step to compensate her for the sufferings she went through and she, in all probability, will continue to suffer all her life she has come before this Court through this writ petition.

**4.** Mr. Samuel, learned counsel appearing for the petitioner submitted that as per the provisions of Rule 29 (1) of the Indian Electricity Rules, 1956, it is the duty of the Power Suppliers to construct and install the electricity supply line and its apparatus, protect, work and maintain in such a manner as to ensure safety of human beings, animals and properties. Therefore, the respondents, who are the suppliers of the electricity power and who constructed and owned the power line that goes over the house of the petitioner should have maintained the same properly so that safety of human beings was ensured. Mr. Samuel also submitted that as per Rule 80 (1) all high or extra high voltage overhead lines passing above or adjacent to any building or part of the building

must have a vertical clearance of not less than 3.7 meters above the highest part of the building immediately under such lines. However, the respondents herein failed to maintain the same height as given in this Rule and that has led to the unfortunate incident which has caused so much suffering to the petitioner, which will continue all her life with almost 50% of disability. Therefore, the respondents, who were negligent while constructing the power line and maintaining the same are liable to pay adequate compensation claimed by the petitioner, which is only Rs. 25 Lakhs. In support of his submission, Mr. Samuel has referred to a judgment and order of this Bench dated 07.02.2020 passed in WP(C)/132/2018, and the judgment and order dated 22.06.2018, passed in WA/31/2017. The learned counsel also referred to a judgment of the Hon'ble Supreme Court passed in the case of ***State Of H.P. And Ors Versus Naval Kumar Alias Rohit Kumar*** reported in ***(2017) 3SCC 115***.

5. The learned Addl. AG appearing for the State respondents, by referring to the affidavit-in-opposition filed by the respondents submitted that when the power line was constructed in 1980, the height as prescribed in the relevant Rules was maintained. But the petitioner's parents came and built the house thereafter and also, added one more floor without taking prior permission from the competent authority; therefore, the respondents were not aware of the reduced height of the power line that was passing over their building. Had they been informed in time or had permission been sought for the construction of the house, necessary measures would have been taken and the unfortunate incident could have been avoided. The learned Addl. AG also submitted

that assuming but not admitting that the petitioner's claim for compensation is justified, the same can only be granted as per the Notification dated 13.04.2021, issued by the Power and Electricity Department, Government of Mizoram; according to which the petitioner would be entitled to only Rs. 50,000/-.

**6.** I have considered the submission of the learned counsels appearing for the parties. Before I go any further it would be proper to reproduce the relevant provisions of the law.

- i) **Rule 29 (1) of the Indian Electricity Rules, 1956:** *All electric supply lines and apparatus shall be constructed, installed, protected, worked and maintained in such a manner as to ensure safety of human beings, animals and property.*
- ii) **Rule 80 (1) of the Indian Electricity Rules 1956:** *All high or extra-high voltage overhead line passing above or adjacent to any building or part of a building must have on the basis of maximum sag a vertical clearance of not less than 3.7 meters (12.1391 feet) above the highest part of the building immediately under such lines.*

On careful reading of the two provisions of the relevant law it can be seen that it is the primary duty of the power supplier to construct, install, protect, work and maintain the power lines in such a manner as to ensure safety of human lives, animals and properties. Further, it can also be seen that it is the duty of the power supplier to see that the height of power line is maintained at all times at least above 3.7 meters

either from the ground or the building above which the line passes through.

There is no argument as to the fact that the line in question was hanging loose and was at much below the prescribed height of 3.7 meters, and the same was also confirmed during the Police investigation. Therefore, the only question is as to who was at fault. The claim of the respondents is that the line was constructed in 1980 and the petitioner's parents came thereafter and constructed their house and also added one more floor without permission from the competent authority and their knowledge. And that has reduced the height of the power line which otherwise was maintained at the correct height as prescribed by law. However, nothing is mentioned in the counter-affidavit or nothing is brought on record which will prove their claim. Therefore, their claim has no basis or support whatsoever. Thus, the claim of the petitioner that it was due to the negligence of the respondents that she was electrocuted has to be accepted. Power distributors have their workers appointed to oversee not only the construction, but also to maintain the lines so that human lives are not put to danger. But the fact that a report about the same was submitted to the Deputy Commissioner of Aizawl by the Sub-Divisional Officer, Distribution Sub-Division-II, Aizawl North only on 23.04.2019, that is the day after the incident, shows that they were not mindful of the duty they owe towards the people as provided in the relevant Rules mentioned above. Therefore, it can be concluded without any doubt that the respondents were negligent and because of their negligence the petitioner has suffered such irreparable loss for all her lifetime.

**7.** Now coming to the compensation claimed by the petitioner, i.e. Rs. 25 Lakhs, out of which Rs. 5 Lakhs is the money already spent for medical treatment (which are all supported by money receipts and vouchers) one has to consider the sufferings that the petitioner has gone through because of the incident, the disablement she has suffered and the consequences she will suffer all through her life. Further, one has also to take into consideration the sufferings the family members have gone through and will go through in taking care of her. Therefore, taking all these into account, this Court is of the view that the amount claimed by the petitioner is a reasonable amount. Living cost in this part of the country has risen and due to the rising inflationary rate, value of the money has also gone down considerably. Therefore, Rs. 25 Lakhs claimed by the petitioner, for the expenses already made and for her future life, in any case, is not an excessive claim.

The submission of the learned Addl. AG that the compensation, if at all this Court decides to grant, it has to be given as per the provisions of the Notification dated 13.04.2021, in my considered view cannot be accepted simply because the Notification is of 2021 and it has no provision for retrospective application, therefore, it cannot be applied in the case of the petitioner who suffered the electrocution in 2019.

**8.** In view of the above discussions, observations and conclusions drawn, I am of the view that the writ petitioner has a good case. Accordingly, the writ petition is allowed. Therefore, the respondents are hereby directed to pay a sum of Rs. 25 Lakhs to the petitioner within a period of four months from the date of receipt of a copy of this order. In

case the whole compensation is not paid within the time given it will carry interest @6% p.a. till the amount is paid. Since the petitioner is still a minor let a sum of Rs. 15,00,000/- (Rupees Fifteen Lakhs) be deposited in a Fixed Deposit Account in a nationalized bank so that she may be able to decide what to do with it when she attains adulthood. The rest of the compensation amount may be used by her guardian in her best interest.

The writ petition is accordingly disposed.

**JUDGE**

**Comparing Assistant**