

GAHC010023752019



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

Case No. : WP(C)/842/2019

GIRINDRA NATH
S/O- LT GAYORAM NATH, B/O- LT ARUN NATH, R//O- VILL-
SAUDARVITHA, P.O. SAUDARVITHA, P.S. SALBARI, DIST- BAKSA, BTAD
(ASSAM), PIN- 781343

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LTD (APDCL) AND 3 ORS.
REP. BY THE CHIEF GENERAL MANAGER (D), LAZ BIJULI BHAWAN,
PALTANBAZAR, GHY-01

2:THE CHIEF ELECTRICAL INSPECTOR
GOVT. OF ASSAM
HOUSEFED COMPLEX
GHY-6

3:THE CHIEF EXECUTIVE OFFICER/ENGINEER
ASSAM POWER DISTRIBUTION COMPANY LTD.
LAZ BARPETA ELECTRICAL DIVISION
ASSAM
PIN- 781301

4:THE SUB-DIVISIONAL ENGINEER
ASSAM POWER DISTRIBUTION COMPANY LTD.
LAZ
PATHSALA ELECTRICAL SUB-DIVISION
PATHSALA
DIST- BARPETA
ASSAM
PIN- 78132

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent : SC, APDCL

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 22.07.2024

Heard Mr. K.R. Patgiri learned counsel for the petitioner. Also heard Mr. K.P. Pathak learned counsel for the respondent Nos.1, 3 & 4 and Mr. M Chetia learned counsel for the respondent No.2.

The younger brother of the petitioner died on 22.12.2014 due to electrocution. An FIR was lodged before the Patacharkuchi Police station which was registered as Patacharkuchi U/D case No.24/2014 dated 22.12.2014. Post mortem was conducted over the dead body and the post mortem report suggests that the cause of death is due to electrocution. In the aforesaid backdrop, seeking compensation, the present writ petition is filed.

An affidavit has been filed by the respondent No.2 i.e., Chief Electrical Inspector wherein, the enquiry conducted under section 161 of the Electricity Act, 2003 is annexed. The enquiry report suggests that there were negligence on the part of the APDCL authority in not taking adequate precautions and thus violated Regulation 19(1). The enquiry report further suggests that there is violation of Regulation 19.3 by the deceased himself, inasmuch as, according to the report, the deceased person himself climbed up to the top of the transformer, for the reasons best known to him and thus got electrocuted.

In the aforesaid backdrop, it is the considered opinion of this court, that this court in the given facts of the present case, cannot determine the quantum of compensation, more particularly, for the reason that the

enquiry report suggests negligence on the part of both the APDCL as well as the deceased.

The compensation is determined in terms of the AERC (Compensation of Victim of Electrical Accidents), Regulation 2019 framed in exercise of the power conferred under section 181(1) of the Electricity Act, 2003. Regulation 5 under chapter 3 prescribes for modalities of payment of compensation. In terms of the aforesaid chapter, a compensation is to be paid as provided in the Schedule appended thereto. However, such compensation can be paid on the basis of a report of the Chief Electrical Inspector when it suggests that the death or injury was due to fault of the Electrical Company.

In the aforesaid backdrop, when in the present case a dispute has been raised as regards negligence on the part of both the parties without any specific ascertainment that it is for the fault of the distribution company the brother of the petitioner had died, this court will not be in a position to determine the actual compensation, more particularly, for the reason that such conclusion shall require determination of factual disputes.

In view of the aforesaid, the writ petition stands closed, however, with a liberty to the petitioner to approach the appropriate forum seeking compensation/damages and/or making a challenge to the Enquiry Report, if so advised.

JUDGE

Comparing Assistant