

GAHC010186872020



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

Case No. : WP(C)/5744/2020

MISS SAJINA BEGUM @ SAJINA BIBI
W/O LATE JEHERUL ISLAM, VILL-HALIGAON, FAKIRPARA, P.O.-
BIJOYNAGAR, P.S.-PALASHBARI, DIST-KAMRUP, ASSAM, PIN-781122

VERSUS

THE ASSAM POWER DISTRIBUTION CO LTD AND 6 ORS
(SUCCESSOR COMPANY OF ERSTWHILE ASSAM STATE ELECTRICITY
BOARD), REPRESENTED HEREIN BY ITS GENERAL MANAGER, BIJULI
BHAWAN, PALTAN BAZAR, GUWAHATI-1

2: THE CHIEF ENGINEER
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-1

3: THE SUPERINTENDING ENGINEER
GE-II
GUWAHATI
BHARALUMUKH
GUWAHATI-9

4: THE EXECUTIVE ENGINEER
MIRZA ELECTRICAL DIVISION
MIRZA
KAMRUP
ASSAM

5: THE ASSISTANT EXECUTIVE ENGINEER
MIRZA ELECTRICAL DIVISION
MIRZA

KAMRUP
ASSAM

6:THE CHIEF ELECTRICAL INSPECTOR CUM ADVISER
GOVT. OF ASSAM
RAJGARH BYE-LANE NO. 5
CHANDMARI
GUWAHATI-3

7:THE CIRCLE OFFICER
PALASBARI CIRCLE
MIRZA
KAMRUP
ASSA

Advocate for the Petitioner : MS. N S THAKURIA, MR. G K THAKURIA

Advocate for the Respondent : SC, APDCL, GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

30.08.2024

1. Heard Ms. N. S. Thakuria, learned counsel for the petitioner. Also heard Mr. K. P. Pathak, learned Standing Counsel for the APDCL representing the respondent Nos. 1 to 5 and Mr. K. Gogoi, learned State counsel representing the respondent Nos. 6 and 7.
2. The present writ petition is filed, inter alia alleging that the petitioner's husband namely, Jeherul Islam who was a driver by profession, while he was returning back from work, he came in contact with a live electric wire on 13.09.2014 at about 08:30 PM which was lying on the road at Village- Haligaon. Due to heavy downpour, he could not see anything and came in contact with the live wire and ultimately died by electrocution. Though the husband of the petitioner was taken to hospital, but he was declared brought dead. Accordingly,

a case being UD Case No. 43/2014 was registered in Bijaynagar police Station.

3. It is the contention of the petitioner that the matter was immediately informed to the Mirza Electrical Sub-Division and to the S.D.O, Mirza Sub Division, however, the respondent/APDCL has not done anything for payment of compensation to which the petitioner is entitled under law.
4. Initially, an affidavit has been filed by the respondent No. 6, who is the Additional Chief Electrical Inspector –cum- Adviser, Government of Assam, however, no enquiry report was annexed to the said affidavit. Subsequently, one Bhabananda Pathak, Sr. Grade Electrical Inspector, the respondent No. 6 filed an affidavit annexing the Electrical Accident Enquiry report, which opined that there is non-compliance of the provision of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulation 2010, and lack of corrective maintenance works caused the accident. The report further discloses that, the Enquiry Officer, from the eye witnesses account as well as the document furnished by the officials of the APDCL, that bare live LT conductors were snapped and lying on village road in energized condition. It was further opined that had appropriate safety preventive measures were taken and had there been regular and proper checking of line by the owner of the overhead line, the electric accident resulting to death of the victim, could have been avoided. The enquiry officer also duly placed reliance on the post mortem report, which disclosed that the cause of death was due to syncope as a result of ante mortem electrocution.
5. In the backdrop of the aforesaid determination, in the considered opinion of this Court, the petitioner shall be entitled for compensation in terms of the provision of Assam Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulation, 2019 (hereinafter referred to as Regulation, 2019).

6. Rule 5 of the Regulation 2019 deals with liability of compensation and such provision prescribes that notwithstanding anything contained in any other law in force, the licensee/generating company including CPP shall be liable to pay compensation as specified in the Regulation to the persons affected or his dependents for loss of animal or human lives or injury to human being and animals in consequence of an electrical accident attributable to the fault/negligence of the licensee/generating company/CPP.
7. Section 161 of the Electricity Act, 2003 empowers the Electricity Inspector to enquiry into such accident and to find out the reasons. The enquiry report annexed by the Electrical Inspector also suggests that such enquiry was completed in exercise of power under Section 161 of the Electricity Act, 2003.
8. Section 162(2) of the Electricity Act, 2003 however, prescribes that the licensee/generating company/CPP shall have a remedy of appeal against the decision of an Electrical Inspector and such appeal is maintainable to the appropriate government or to the appropriate Commission as the case may be.
9. The quantum of the compensation has also been prescribed under Rule 6 of the Regulation 2019. Such quantum is prescribed in Schedule-B of the Regulation, 2019. Schedule-B prescribes that in case of loss of human life as a result of an electrical accident, the amount should be Rs. 4.00 lakhs per person.
10. In the aforesaid prescriptions of law as well as the factual position as ascertained by the Electrical Inspector, in his Enquiry Report submitted in exercise of power under Section 161 of the Electricity Act, 2003, this Court in exercise of its power of judicial review cannot but held, the petitioner shall be entitled for payment of compensation of Rs. 4.00 lakhs in terms of Schedule-B. Ordered accordingly. Such payment be made within a period of two weeks from receipt of a copy of this order to be furnished by the petitioner before the competent

authority.

11. While parting with the record, it is made clear that this order may not be treated as a comment on the enquiry report inasmuch as the APDCL shall be at liberty to approach the appropriate forum under Section 162(2) of the Electricity Act, 2003, if so advised.
12. Writ petition stands disposed of.

JUDGE

Comparing Assistant