

GAHC010218762022



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

Case No. : WP(C)/7078/2022

DAIKHANGSRI BASUMATARY
C/O- LATE MAGU RAM BASUMATARY, R/O- VILL.- JABRANGPAR, P.O.
NAOKATA, P.S. GORESWAR, DIST. BAKSA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, POWER DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE ASSAM STATE ELECTRICITY BOARD
TO BE REPRESENTED BY ITS CHAIRMAN
HEAD OFFICE PALTANBAZAR
BIJULI BHAWAN
GUWAHATI-01.

3:THE SENIOR ELECTRICAL INSPECTOR
GOVT. OF ASSAM
RAJGARH ROAD
PUB SARANIA
GUWAHATI-781003.

4:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED (APDCL)
REPRESENTED BY THE CHIEF GENERAL MANAGER
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI-01.

5:THE EXECUTIVE ENGINEER
ASSAM POWER DISTRIBUTION CO. LTD. (APDCL) BAKSA ELECTRICITY
SUB-DIVISION
DIST. BAKSA

ASSAM

6:THE SUB-DIVISIONAL OFFICER
APDCL TAMULPUR ELECTRICAL SUB-DIVISION
TAMULPUR
DIST. BAKSA
ASSAM
PIN- 789367

Advocate for the Petitioner : MR A HUSSAIN, MR G U AHMED

Advocate for the Respondent : SC, APDCL, MS. M BARMAN, GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 30.09.2024

1. Heard Mr. A Hussain learned counsel for the petitioner. Also heard Mr. CKS Baruah learned Junior Government Advocate, Assam appearing for respondent Nos.1 & 3 and Mr. P Sarma learned counsel for the respondent Nos.2, 4, 5 and 6.
2. The present petitioner is the wife of the deceased namely, Maguram Basumatary, who died due to electrocution on 15.09.2021, while he was returning from the market. The deceased was aged about 42 years.
3. The Suagpur Police Station on the basis of the information received, registered Goreswar PS, UD Case No.13/2021 dated 21.09.2021 and Post Mortem was also conducted on 21.09.2022. In the Post Mortem report the expert opined that death has been caused due to ventricular fibrillation resulting from electrocution and after that the investigating officer investigated the matter and submitted police report. Claiming compensation and alleging

negligence, the present writ petition is filed.

4. An affidavit has been filed by the respondent No.3, who is Chief Electrical Inspector-cum-Adviser (i/c), Govt. of Assam. From the affidavit it is reflected that an enquiry was conducted, documents were collected from the authorities of the APDCL and information's were gathered from the witnesses by visiting the place of accident and after the aforesaid enquiry a detailed Electrical Accident Enquiry Report dated 27.06.2024 was submitted by the Deputy Chief Electrical Inspector, Govt. of Assam. The important findings recorded in the report is quoted herein below:

*“11. **CAUSES OF DEATH:** As per the Post Mortem Report of Dr. Ravi Baro Civil Hospital, Mushalpur, Baksa, BTAD in the matter of UD Case No.13/2021 dtd 21.09.2021 of Goreswar Police Station under Tamulpur Civil District, the cause of death was recorded as "**due to syncope as a result of ventricular fibrillation following ante-mortem electrocution.**"*

***13. BRIEF DESCRIPTION OF THE ACCIDENT:** During site verification, it was observed that the PSC poles including Double PSC Pole support which was involved in the said accident used for the purpose of power supply to a JIO Tower have not earthed permanently and efficiently which is non-compliance of the provision of the regulation 74(1)(a) of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2023.*

***13. CAUSES LEADING TO THE ACCIDENT:** from the facts and circumstantial evidence, it appears that the victim Maguram Basumatary had knocked the PSC electrical pole support of 11KV Naokata feeder of 33KV/11KV Goreswar sub-station under Rangia electrical sub-division-I, APDCL at the accident spot and might have received the fatal electrical shock. Though as per the Police and the Post Mortem reports, death was due to electric shock but as per the*

records submitted by the concerned officer of APDCL stated that no such electrocution accident occurred on 15.09.2021 at Jalthengpar Chilong Chowk market.

During site verification, it appears that due to absence of appropriate earthing arrangement of the PSC poles and the bare conductor used as carrier of 11KV overhead insulated cable, there is a possibility that leakage current may flow through the PSC pole at rated voltage which was involved in the accident and the victim may have come in contract with the leakage current as a result of which the victim might have received the fatal electric shock.

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