

GAHC010235232022



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

Case No. : WP(C)/7651/2022

HALADHAR DEKA
S/O LATE KABIN DEKA, R/O VILL- JALIMURA, P.O.-KALAZAL, P.S.-
KAMALPUR, DIST- KAMRUP, 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
RAJGHAR ROAD
PUB-SARANIA
GUWAHATI-03

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

5:THE CHIEF EXECUTIVE OFFICER
RANGIA ELECTRICAL CIRCLE
APDCL (LAR)
RANGIA
P.O.-RANGIA

P.S.-RANGIA
DIST- NALBARI
ASSAM
PIN-781354

6:THE SUB-DIVISIONAL ENGINEER
BAIHATA CHARIALI ELECTRICAL SUB-DIVISION
APDCL (LAR)
BAIHATA CHARIALI
DIST-KAMRUP
PIN-78138

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

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

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 04.10.2024

1. Heard Mr. G U Ahmed, 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 brother of the deceased namely, Balin Deka, who died due to electrocution on 15.01.2018 while he was going for morning walk.

3. The Kamalpur Police Station on the basis of the information received, registered a UD Case No.01/2018 dated 15.01.2018 and Post Mortem was also conducted on 05.09.2022. In the Post Mortem report the expert opined that death has been caused due to electric shock fibrillating entimortem electrical burn injury

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 15.02.2023 was submitted by the Deputy Chief Electrical Inspector, Govt. of Assam. The important findings recorded in the report is quoted herein below:

*“12. **CAUSES LEADING TO THE ACCIDENT:** From the above stated facts and circumstantial evidences, it appears that due to snapping of 11KV conductor fell on the ground, the victim received the fatal electric shock and thus electrocuted.*

Had appropriate safety preventive measures been taken and had there been regular and proper checking of the line by the owner of the overhead line, the instant electrical accident resulting to death of the victim would not have taken place.

***13. CONTRAVENTION:** From the facts and circumstances leading to the accident it appears that*

there occurred contravention of regulation 12(1) of the Central Electricity Authority (Measures relating to safety and Electric Supply) Regulations, 2010 is on part of the owner of the overhead line i.e., the Assam Power Distribution Company Limited (APDCL)."

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