

GAHC010255702018



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

Case No. : WP(C)/7981/2018

SAHA ALAM
S/O. LT. ANOWAR HUSSAIN, VILL. KAMARDIHI PART-I, P.O. TILAPARA, P.S.
CHAPAR, DIST. DHUBRI, ASSAM-783348.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GHY.-
06.

2:THE ASSAM POWER AND DISTRIBUTION COMPANY LTD.

REP. BY THE CHAIRMAN ELECTRICITY BOARD
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-08.

3:THE CHIEF ENGINEER (DISTRIBUTION)

BIJULI BHAWAN
PALTAN BAZAR
GHY.-08.

4:THE SUPERINTENDENT ENGINEER

APDCL
DHUBRI DISTRICT
DHUBRI
ASSAM-783301.

5:THE SUB-DIVISIONAL ENGINEER

CHAPAR ELECTRICITY SUB-DIVISION
APDCL
DIST. DHUBRI
ASSAM-783371.

6:THE CHIEF ELECTRICAL INSPECTOR

GOVT. OF ASSAM MAHAVAIRAB BUILDING CHANDMARI
SOUTH SARANIA
GHY.-03

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : GA, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

26.02.2024

Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Ms. U. Das, learned Addl. Senior Government Advocate, Assam for respondent Nos. 1 and 6 and Mr. R. Bora, learned Standing Counsel for respondent APDCL.

2. By filing this writ petition the petitioner is seeking compensation against the electrocution death of his mother and wife.

3. The fact of the case in brief is that on 19.02.2018, the minor child of the petitioner touched the GI wire which is supported to the service wire to the resident house of the petitioner from the electricity pole. The electricity live wire was connected with the GI wire at the top of the pole. As a result of which, the child of the petitioner got electrocuted. Accordingly, the mother and wife of the petitioner tried to save the life of the child by removing him from the live wire. Consequently, the mother and wife of the petitioner got electrocuted. Though the victims were taken to Chapar Civil Hospital for treatment, but the mother i.e. Jahura Bewa and wife Samedha Bibi

was declared brought dead. However, the child survived.

4. Mr. M. Hussain, learned counsel for the petitioner submits that it was the duty of the Electricity Department to make inquiry about the live wire which was connected to the house premises of the petitioner from the electricity pole and required maintaining the same. It was because of the negligence of the respondent authorities that two persons died and as such, are entitled for appropriate compensation as per the provisions of the relevant Act and guidelines framed from time to time.

5. Mr. Bora, learned Standing Counsel for the APDCL submits that there is no fault or negligence on the part of the APDCL.

6. Ms. U. Das, learned ASGA, Assam draws the attention of the Court to the affidavit filed by the respondent No. 6, wherein the inquiry conducted by the Chief Electrical Inspector-cum-Adviser, Government of Assam is annexed.

7. I have heard the submissions made at the bar and have perused the materials available on record.

8. It appears from the report of the Chief Electrical Inspector-cum-Adviser, Government of Assam dated 06.05.2019, annexed as annexure-1 to the affidavit-in-opposition filed by the respondent No. 6 that on 21.04.2023, the victims, i.e. Jahura Bewa and Samedha Bibi lost their lives by coming into contact with the service line alongwith its bearer wire which was hanging just 3 to 4 feet above the ground of their house.

9. It further appears that a three phase, four wire, 400 volt bare conductor overhead line passes in front of the petitioner's house for supplying powers of the locality, which is fed from a 11/0.430 KV, 63 KVA pole mounted distribution sub-station at village Kamardihi part-1 under Chapar Police Station.

10. It further appears that the service lines of the petitioner house and adjacent

houses were drawn from the aforesaid distribution line of the APDCL

11. It further appears that as reported by the concerned Sub-Divisional Engineer of APDCL, the electrical accident occurred at village Kamardihi Pt-I where the victims were electrocuted on coming in contact with a service line drawn to the petitioner's house. It was further reported that the service line was drawn above an adjacent house of the petitioner and after dismantling of the said house, the service line alongwith its bearer wire became loose and the victim having coming contact with the said loose wire got electrocuted and ultimately died.

12. It further appears from the opinion of the Chief Electrical Inspector-cum-Adviser, Government of Assam that the accident was occurred due to the hanging of the service line in an accessible position in the petitioner's house. That being so, a clear case of negligence by APDCL is evident from the inquiry report.

13. The Office Memorandum dated 07.11.2019 has prescribed an amount of Rs. 4,00,000/-(Rupees four lakh) only for loss of human life. While prescribing the amount of Rs. 4 lakh as compensation, it has also been prescribed that in the event of a claim is not settled within a period of 120 days from the date of the occurrence of the electric accident, the delay in payment of compensation shall result in an additional interest of 12% per annum on the amount.

14. In the light of the above discussion, this Court is of the considered view that the petitioner is entitled to be compensated under the Office Memorandum dated 07.11.2019.

15. As such, the respondent APDCL authorities are directed to make payment of the compensation of Rs. 4 lakh each for the loss of his mother and wife to the petitioner alongwith an interest of 12% per annum on the said amount.

16. Having due regard to the factual position, it is directed that the respondent

APDCL authorities shall calculate the interest @12% per annum from the date of the submission of the electrical accident inquiry report by the respondent No. 6 i.e. 06.05.2019.

17. The same shall be paid to the petitioner upon due identification within a period of 2 months from the date of receipt of a certified copy of this order by the respondent APDCL authorities.

18. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant