

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.529 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 6970 of 2005**

=====

Birendra Sharma, S/O Jitendra Sharma, Resident of mohalla- Satsang Nagar, Road
No.- 1, P.S. + District-Jehanabad

.... Appellant/s

Versus

1. The Bihar State Electricity Board, Patna through Its Secretary
2. The Chairman, Bihar State Electricity Board, Patna
3. The Executive Engineer (Electrical), Jahanabad
4. The Secretary, Department of Electricity, Govt. of Bihar, Patna

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. R. K. Rajan, Advocate.

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 22-08-2016

Heard learned counsel for the parties.

2. The present intra court appeal is directed against the order dated 01.08.2012 passed by the learned Single Bench by which CWJC No. 6970 of 2005, filed by the appellant, has been allowed only to the extent of directing the respondents to pay interim compensation of Rs. 50,000/-.

3. The mother of the appellant died on 24.02.2005 on account of coming into contact with live high voltage wire lying on the road. The appellant filed application before the respondents demanding Rs. 7,66,080/- by way of compensation. When no action



was taken, he moved in CWJC No. 6970 of 2005, which was allowed by the learned Single Bench by order dated 01.08.2012 directing the respondents for payment of Rs. 50,000/-, as interim compensation for loss of life of the mother of the appellant, with liberty to invoke the jurisdiction of the competent authority or forum, if not satisfied with the quantification. The said order of the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that the learned Single Bench has committed error by awarding only interim compensation and relegating the appellant to the alternative forum with regard to quantification, since the Court, under the writ jurisdiction, has awarded compensation in similar cases ranging from Rs. 2,50,000/- to Rs. 5,00,000/- and the order of the learned Single Bench awarding interim compensation of only Rs. 50,000/- needs to be interfered with. For such proposition, learned counsel relied upon the decisions of this Court in the case of **Lallan Prasad Singh vs. State of Bihar** reported as **2012(1) PLJR 728** and **Vijay Singh vs. State of Bihar** reported as **2012(2) PLJR 771** as well as that of the Delhi High Court in the case of **Criminal Justice Society vs. Union of India** reported as **AIR 2010 Delhi 194**.

5. Further, learned counsel submitted that under Article 226 of the Constitution of India, availability of an alternative

remedy by itself is not a ground for the Court to refrain from exercising its jurisdiction. In support of such contention, he relies upon the decision of the Hon'ble Supreme Court in the case of ***Committee of Management v. Vice-Chancellor*** reported as **2009(2) PLJR 59(SC)**.

6. Learned counsel for the respondents submits that the fact that death occurred due to electrocution *per se* would not lead to the position where compensation, as a matter of right, has to be paid, for the reason that there has to be a finding of fact that the same was due to negligence on the part of the respondents, for which an enquiry is required and evidence taken. Learned counsel further submits that the respondents have also taken a policy decision with regard to awarding of compensation to a maximum sum of Rs. 2,00,000/- and till the time such circular is not struck down, the same has to be given effect to. He submits that a Division Bench of this Court, in the case of ***Bihar State Electricity Board vs. Munia Devi*** reported as **2015 (2) PLJR 781**, had set aside the order of the learned Single Bench directing for payment of Rs. 4,00,000/- as compensation and modified the same to Rs. 2,00,000/-, for the reason that the Board having laid down the maximum amount of compensation to be awarded in such cases, and there being no challenge to the circular, it shall not be proper exercise of jurisdiction to grant in excess of the

same. For such proposition, he also relies on the decision of the Hon'ble Supreme Court in the case of **Guruvayoor Devaswom Managing Committee v. C.K.Rajan** reported as **(2003) 7 SCC 546**.

7. Having considered the rival contentions, we do not find any merit in the present appeal. The learned Single Bench has granted compensation of Rs. 50,000/- as an interim measure and neither put a final seal nor precluded the appellant from getting further compensation, which is reasonable. The mode of computing the compensation, as per the appellant, to arrive at the figure to Rs. 7,66,080/-, is required to be adjudicated in a regularly constituted proceeding by a forum being competent in law to do so.

8. For the reasons aforesaid, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal, which, accordingly, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	
U	