

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2464 of 2014

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Mana Devi w/o Late Ishwar Singh R/o Budhari Tahsil Lohat, District- Bhiwani,
Haryana

.... Petitioner/s

Versus

1. Bihar State Bidhut Board Through Chairman, Bailey Road, Patna, P.S.- Kotwali,
District- Patna
2. The Chairman, Bihar State Electricity Board, P.S.- Kotwali, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SHAMBHU PRASAD

For the Respondent/s : Mr. VINAY KIRTI SINGH

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 27-09-2016

Heard the counsel for the petitioner and the State.

Petitioner is the widow of late Ishwar Singh, who, while moving in road came in contact with the naked live electric wire and was electrocuted to death. The incident occurred on 29.08.2001 at Laljitola in the city of Patna. A U.D. case was registered. The dead body was required to be sent to his ancestral place in the State of Haryana for which a request was made by the family members of the deceased also as requested by the Rail Authority. An autopsy was required to be conducted over the cadaver. For this purpose, the body was sent to the Patna Medical College Hospital (PMCH) and the autopsy report/note dated 29.08.2001 was obtained from the Autopsy Attendant, copy whereof is present at Annexure-4. The petitioner being the widow of the deceased is moving pillar to post



for payment of the ex-gratia amount payable to her as her husband died owing to the sheer negligence of the respondents-Bihar State Electricity Board (now the Bihar State Power Holding Company Ltd. for short “the Company”). When the request of the petitioner was not considered in spite of representations/applications, she, under legal advice, filed a complaint before the Bihar Human Rights Commission which gave rise to File No. 1703 of 2012. Her application was not entertained and an order to this effect was passed on 7.01.2013, a copy whereof is placed at annexure-7/A. Be it further noted that earlier the petitioner had also approached the Authority of the erstwhile Bihar State Electricity Board, whereafter the communication dated 16.10.2009 (Annexure-6) issued by the Chief Engineer and addressed to the General Manager-cum-Chief Engineer, Patna, Electric Supply Area (PESU), was issued calling for reports. However, no relief was granted to the petitioner by the respondent(s).

Contention of the petitioner is that the respondent-Company is under legal obligation as per their own Circular to pay to the deceased family the ex-gratia amount as indisputably owing to gross negligence in maintenance of the electric wire, the husband of the petitioner had died while moving on road. Such negligence would give arise to both criminal action as well as civil liability. Petitioner being the widow of the deceased and resident of the State of



Haryana has been continuously raising such grievance since last 14 years but without any relief. It has been urged that the ends of justice in the case demands a direction upon the respondents to pay the amount as per the policy decision to the petitioner. As there has been inordinate delay in the discharge of the liability, she is entitled to interest thereover as deemed appropriate by this Court.

The counsel for the respondents has submitted that the autopsy report in the case of her husband was not produced. The petitioner was asked to produce the autopsy report of her deceased husband which was not done. Under the directions of the Human Rights Commission, the respondents have resolved to enhance the payment of ex-gratia amount from Rs. 25,000/- to 50,000/- in 2005. The husband of the petitioner had died in 2001. During the relevant time, the sum of Rs. 25,000/- was only payable to such dependent of the deceased, if it is found that the deceased had died on account of electrocution.

In the case at hand, the deceased was moving on road when he came in contact with live electric wire, lying uncared on the road and died. As the body was to be sent to the State of Haryana by train, an objection was raised by the Rail Authority, whereafter the body of the husband of the petitioner was sent to P.M.C.H. for conducting autopsy. The autopsy note issued by the autopsy attendant is on record. The Court has no manner of doubt in

consideration of those materials that in the case of the husband of the petitioner such autopsy was conducted on the cadaver and autopsy note was drawn. The objection of the respondents that there was no autopsy report in support of the deceased husband of the petitioner is not sustainable.

This Court in such matter normally directs the respondents to pay the ex-gratia payment/amount as per their own decision to comply with their legal obligation. Indisputably, the facts of the case reveal that there was negligence on the part of the respondents in proper maintenance of the electric line laid over the flank of the road. In case of breakage they ought to have immediately removed the fallen electric wire. This having not been done a citizen like the husband of the petitioner lost his valuable life. The Court in such proceeding would not consider as to appropriate quantum to which the person aggrieved is entitled to receive as the ex-gratia payment. The respondents themselves have resolved that in such matter the dependant of the deceased would be entitled to ex-gratia payment. On perusal of the relevant Circular/Resolution of the respondents, it appears that when the husband of the petitioner was died of electrocution, a sum of Rs. 25,000/- was payable as the ex-gratia amount. The same was later enhanced to Rs. 50,000/- and subsequently further enhanced to Rs. 1 lac. The widow of the deceased has been running since 2002 for the payment of ex-gratia

amount which ought to have been paid to her soon after the death in due discharge of the liability under the policy decision. She is fighting for the same sine last 14 years. Such litigation on her part was all the more excruciating as she is the resident of different State.

Taking into consideration all the relevant circumstances, in my considered opinion, the ends of justice shall be met if the respondent(s) are directed to pay a sum of Rs. 1 lac to the petitioner as the ex-gratia amount. The amount so paid would not come in her way from seeking further compensation in accordance with law. The respondents shall pay the said amount to the petitioner within a period of three weeks from presentation of a fresh application detailing her complete address and bank details. In case the respondents fail to pay the amount within the time indicated she would also be entitled to interest thereon @8% per annum therefrom until discharge of the liability.

The writ application is disposed of with aforesaid directions(s).

rohit/-

(Kishore Kumar Mandal, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.10.2016
Transmission Date	N.A.