

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.891 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 6417 of 2010
Along with
Interlocutory Application No.4667 of 2014

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1. Bihar State Electricity Board, through its Secretary, Bidyut Bhawan, Bailey Road, Patna.
 2. The Chairman, Bihar State Electricity Board, Bidyut Bhawan, Bailey Road, Patna.
 3. The Secretary, Bihar State Electricity Board, Bidyut Bhawan, Bailey Road, Patna.
 4. General Manager-cum-Chief Engineer, Magadh Electricity Supply Zone, Gaya.
 5. The Superintending Engineer, Electricity, Nawada Electric Supply Circle, Nawada.
 6. The Executive Engineer (Electrical), Nawada Electric Supply Circle, Nawada.
 7. The Junior Engineer, (Electricity) Power Grid Par, Nawada.

.... Respodnents- Appellants

Versus

Ramdev Prasad, Son of Sri Shiv Sahai Mahto, Resident of Village- Afardih, P.O.- Mahapur, P.S.- Kauakol, District- Nawada.

.... Petitioner-Respondent/s

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Appearance :

For the Appellant/s : Mr. Prakash Kumar, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 22-08-2016

Re.: Interlocutory Application No.4667 of 2014

The application is for condonation of delay of 16 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.891 of 2014

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 24th of January, 2012 whereby, the writ application was allowed and a sum of Rs.3,50,000/- was awarded as compensation on account of death of Kamdeo Kumar, the son of the writ applicant.

The writ applicant made a grievance that his son came in contact with low hanging electrical live wire of 11 K. V. A. in village Sonubigha on 12.12.2009 at about 4 pm. His friend Shashi Shiv Kumar was accompanying him at the relevant time. Kamdeo Kumar was immediately taken to Nawada Sadar Hospital where he succumbed to his injuries. An F.I.R was lodged as well. Postmortem report, Annexure-6 to the writ application, confirmed the death due to electrocution.

The learned Single Judge noticed the communication dated 22nd June, 2009 by the General Manager-cum-Chief Engineer, Central Electricity Supply requesting the General Manager-cum-Chief Engineer, Central Electric Supply Zone, Gaya to take action with regard to grant of compensation to the writ applicant. The police report is also to the effect that while the son of the writ applicant was walking towards village Sonubigha, got electrocuted by a low hanging live

electrical wire of 11 K. V.A.

The learned Single Bench found that the writ applicant made a request to the Board to make an enquiry in the year 2009 itself, but the stand of the appellants is not that any enquiry was made. The learned Single Bench found that the communication from the General Manager-cum Chief Engineer, Central Electricity Supply would, *prima facie*, support the claim of the writ applicant that on account of low hanging wire, the deceased got electrocuted. Keeping in view the potential of the deceased to earn Rs.24,000/- per year, the learned Single Bench assessed the annual dependency as Rs.14,400/- per annum and, thus, applying multiplier of 25 awarded a sum of Rs.3,50,000/- as compensation.

Learned counsel for the appellants relied upon a judgment of the Supreme Court reported as Chairman, Grid Corporation of Orissa Ltd. (Gridco) and others Versus Sukamani Das (Smt.) and another, (1999) 7 SCC 298, to contend that proper remedy in the case of death by negligence is before the Civil Court. In the said case also, the Supreme Court was seized of the matter on account of death by electrocution. In the said case, the Supreme Court found that the death had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants. However, it is not a case of

snapped live electric wires, but a low hanging electric live wire. The low hanging electric live wire is solely, in fact, of negligence on the part of the Board and, therefore, it cannot be said that it is disputed question of fact which is required to be decided on the basis of evidence led by the parties. The judgment reported cannot be applied to the facts of the present case.

Learned counsel for the appellants relied upon another judgment of the Supreme Court reported as Sarla Verma (Smt) and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121, to contend that since the deceased was of a bachelor, the personal expenses should have been deducted at the rate of 50%. However, the said judgment will not help the appellants in any substantive manner. The income of the deceased was assessed at Rs.24,000/- per year and $\frac{2}{5}^{\text{th}}$ of the income was deducted against his expenses. Resultantly Rs.14,400/- per annum was found to be his contribution towards the family. We find that the yearly income assessed at Rs.24,000/- is conservative estimate as the death has taken place in the year 2009, when even the minimum wages would be more than 24000/- per annum. Since the monthly income has been taken at a conservative level much below the earning capacity of the deceased, therefore, we do not find that amount of Rs.14,400/- per annum taken as contribution towards his family is unfair and unreasonable.

Similarly, the argument regarding multiplier of 25, we find that since the basic monthly income has been assessed to be less, therefore, compensation of Rs.3,50,000/- on account of death of a young boy of 20 years cannot be said to be unfair and unreasonable which may warrant interference in the present intra Court appeal. The Letters Patent Appeal is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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