

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12618 of 2015

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Nazama Khatoon wife of Md. Zubair Resident of village- Goriganwa, P.O.-
Repura, P.S.- Saraiya, District- Muzaffarpur

.... Petitioner/s

Versus

1. The Chairman, Bihar State Power (Holding) Company Limited, Bihar, Patna
2. The General Manager (Human Resources), North Bihar Power Distribution Company Limited, Patna
3. Deputy General Manager-cum-Superintending Engineer, Tirhut Electric Supply Area, Muzaffarpur
4. Executive Engineer, Electric Supply Area, Muzaffarpur
5. Senior Manager (Account), North Bihar Power Distribution Company Limited, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Adv
Mr. Ratan Prasad Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-11-2018

The present writ petition has been filed for a direction to the respondents to award a sum of Rs. 5,00,000/- to the petitioner as enhanced compensation for the death of her daughter Nilofer Yasmin due to electrocution.

2. Learned counsel for the petitioner submits that the daughter of the petitioner died as a result of 11 K.W. live conductor wire snapping from the pole and falling on her on 21.09.2011. The petitioner submitted an application before the General Manager, Tirhut Electric Supply Area, Muzaffarpur on 28.12.2012 for consideration of



claim for compensation for the death of her daughter. Upon intervention of the Bihar Human Rights Commission, Patna the claim of the petitioner was finally considered and an amount of Rs. 1,00,000/- was paid by way of compensation to the petitioner on 13.11.2014.

3. Learned counsel for the petitioner seeks enhanced compensation of Rs. 2,00,000/- in terms of the amended policy providing for enhanced compensation in terms of Memo No. 1677/EB dated 02.07.2012, which reads as follows :-

“With reference to the above, the provisions as contained in the Board’s letter no. 1452 dt-01.09.2008 already communicated to you is further revised and amended for payment of compensation in case of electric accidents as herein under vide Board’s Resolution no. 8667 dt-22.06.2012 taken during 546th meeting of the Board vide item no. 07/2012-13 with immediate effect.

A sum of Rs. 2,00,000/= (Rupees Two Lacs) only instead of Rs. 1,00,000/= (Rupees one Lac) may be paid as compensation in the event of fatal electrical accidents i.e. death of the victims due to electrocution.

Other terms and conditions of the Board’s letter no. 891 dt-12.11.2005; 1476 dt-01.10.2007 and 1452 dt-01.09.2008 shall remain unchanged.”

4. Learned counsel for the respondent-power company submits that the amount of Rs. 1,00,000/- has rightly been paid as compensation in view of the extant circular vide memo no. 1452/E.B. dated 01.07.2008 applicable to the case of the petitioner



in view of the death having occurred on 21.09.2011. It is submitted that the petitioner would not be entitled to enhanced compensation in terms of the circular dated 02.07.2012 relied upon by the petitioner, the same having come into force after the death occurred and moreover, the claim for compensation itself was filed belatedly.

5. Having heard the parties and on consideration of the materials on record, this Court finds substance in the writ petition. The issue of enhanced compensation in similar circumstances was considered in CWJC No. 4736 of 2014 [Janki Devi vs. The Bihar State (Now Bihar State Power Holding Corporation Limited) through its Chairman] and by judgment dated 02.12.2016 it was held as follows :

“Perusal of the same discloses that the enhancement was made effective with immediate effect. Thus, the plain and simple reading would mean that the compensation amount had been enhanced and whatever compensation was due and payable as on 02.07.2012, would be Rs. 2,00,000/- instead of Rs. 1,00,000/-. The said resolution of the respondents does not indicate that the enhancement was only with regard to death which takes place after 02.07.2012. Had that been the intent of the resolution, the same would have been spelt out in the resolution in clear terms whereas in the present case, the resolution clearly states that the payment of compensation in case of electric accident is enhanced from Rs. 1,00,000/- to Rs. 2,00,000/- with immediate effect. Had the respondents discharged their liability under the existing policy prior to 02.07.2012, the matter would have been different, but since the matter was kept pending by them, any fresh policy, which is



beneficial in nature, cannot discriminate only on the basis of date of death moreso, when the application to pay compensation had remained pending and not decided by the respondents, even as per the earlier policy. Further, delay of over two years to pay compensation itself would have called for awarding extra compensation or cost. However, in the facts and circumstances of the present case, it would suffice that the respondents are directed to pay additional Rs. 1,00,000/- so that in terms of the policy dated 02.07.2012, the petitioner gets Rs. 2,00,000/-.”

6. The facts of the instant case are almost identical to those obtaining in Janki Devi’s case (supra). As such the writ petition must be allowed and is accordingly be disposed of with a direction to the General Manager (Human Resources), North Bihar Power Distribution Company Limited, Patna (respondent no. 2) to ensure payment of an additional sum of Rs. 1,00,000/- to the petitioner within a period of six weeks from the date of receipt/production of a copy of this judgment.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2018
Transmission Date	NA

