

GAHC010027212023



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

Case No. : WP(C)/1450/2023

SANU BODO AND ANR
W/O- LATE LAKPESWAR @ LOWPESWAR BODO,
R/O- BORO WAPU,
P.O AND P.S- MAHUR,
DIST- DIMA HASAO, PIN-788819

2: LOTEN BODO
S/O- LATE LAKPESWAR @ LOWPESWAR BODO

R/O- BORO WAPU

P.O AND P.S- MAHUR

DIST- DIMA HASAO
PIN-78881

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, POWER AND ELECTRICITY SUPPLY DEPARTMENT, DISPUR,
GUWAHATI- 781006.

2:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED
REPRESENTED BY THE CHIEF GENERAL MANAGER
APDCL
BIJULEE BHAWAN
PALTAN BAZAR GUWAHATI-01.

3:THE CHIEF GENERAL MANAGER (HRA)

APDCL
BIJULEE BHAWAN
PALTAN BAZAR GUWAHATI-01.

4:THE DEPUTY GENERAL MANAGER
(LAW)
APDCL
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI-01.

5:THE ASSISTANT GENERAL MANAGER

HAFLONG
ELECTRICAL DIVISION
APDCL
CAR
HAFLONG
PIN-788819

6:CHIEF ELECTRICAL INSPECTOR CUM ADVISOR
GOVERNMENT OF ASSAM
INSPECTORATE OF ELECTRICITY
1ST FLOOR
WEST END BLOCK
HOUSEFED COMPLEX
DISPUR
GUWAHATI - 78100

Advocate for the petitioner(s): Mr. B Baruah

Advocate for the respondent(s): Mr. KP Pathak

For respondent Nos.2, 3, 4 and 5

Mr. M Chetia

For respondent Nos.1 and 6

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

18.07.2024

Heard Mr. B Baruah, the learned counsel appearing on behalf of the petitioners. Also heard Mr. KP Pathak, the learned counsel appearing on behalf of respondent Nos.2, 3, 4 and 5 and Mr. M Chetia, the learned counsel appearing on behalf of respondent Nos.1 and 6.

2. The instant writ petition is filed by the petitioners being aggrieved by the non-payment of compensation by the respondent Nos.2 to 5 on account of the death of Late. Lowpeswar Bodo @ Lakpeswar Bodo. From a perusal of the materials on record it reveals that the petitioner No.1 is the wife of Late. Lowpeswar Bodo @ Lakpeswar Bodo and the petitioner No.2 is the son.

3. Late. Lowpeswar Bodo @ Lakpeswar Bodo while going out of his house at around 8.30 A.M., suddenly got electrocuted by a snapped electrical line wire (11 KV) which got detached and lying in the ground and as a result of the electrical accident, he succumbed to his injuries and died on the spot owing to electrocution in his body. Pursuant thereto, an FIR was lodged at Mahur Police Station on 22.04.2015 which is registered as UD Case No.01/2015 by the Officer-in-Charge of Mahur Police Station. Thereupon, a written complaint was submitted before the then Assistant Executive Engineer, Mahur Sub-Division, ASEB, Mahur on 24.06.2014.

4. This Court has also perused the post mortem report which has been annexed as Annexure-4 to the writ petition and from a perusal of the same, it reveals that the concerned authority had opined that the cause of the death of the victim was due to cardiac arrest as a consequence of the electric shock.

5. The petitioners thereupon filed various applications to the respondent

authorities for release of the compensation. However, the respondent authorities for reasons best known did not release the said amount. It is under such circumstances, the instant writ petition has been filed.

6. This Court duly takes note of that the instant writ petition was filed on 07.02.2023 and vide an order dated 17.03.2023, this Court issued notice and sought for the report from the respondent No.6. Pursuant thereto, the respondent No.6 filed an affidavit and also enclosed the electrical accident report. From a perusal of the electrical accident report, it reveals that the electrical accident occurred due to very low ground clearance of the live 11KV bare conductor, which Late. Lowpeswar Bodo @ Lakpeswar Bodo came in contact unfortunately on account of the said live 11KV bare conductor line which fell down on the ground. The report categorically shows that it was on account of the fault of the respondent Nos.2 to 5 which had resulted in the electrical accident leading to the fatal death of Late. Lowpeswar Bodo.

7. The records further reveals that there is no affidavit being filed by the respondent APDCL authorities.

8. This Court has duly taken note of the provisions of Section 57 of the Electricity Act of 2003 as well as the *AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019* (for short, the Regulations of 2019). From a perusal of the said Regulations of 2019, it reveals that in terms with Regulations 5, if there is a loss of human life on account of the fault of the APDCL authorities, the compensation would be payable in terms with Schedule B of the said Regulations. In terms with Clause 1 of Schedule B, it is seen that the compensation payable for loss of human life as a result of an electrical accident is Rs.4 lacs per person.

9. Taking into account the electrical accident report, this Court is of the opinion that respondent Nos.2 to 5 are liable to pay to the petitioner an amount of Rs.4 lacs on account of the unfortunate death of Late. Lowpeswar Bodo @ Lakpeswar Bodo. This Court also takes note of that the aforesaid amount the petitioners are entitled to on the basis of the said Regulations of 2019 and the same, however, does not effect the petitioners to claim other compensations in view of Regulation 9 of the Regulations of 2019.

10. Mr. B Baruah, the learned counsel appearing on behalf of the petitioners submits that the petitioners are entitled to interest in terms with Regulation 20 of the Regulations of 2019. It is the opinion of this Court that on account of the delayed approach to this Court, this Court is not inclined to grant the interest for the period till the filing of the instant writ petition which is on 07.02.2023. However, w.e.f. 07.02.2023, the petitioners would be entitled to interest @12% per annum on the amount of Rs.4 lacs till the said amount is duly paid to the petitioners.

11. Accordingly, the instant writ petition, therefore, stands disposed of with a direction to the respondent Nos.2 to 5 to pay to the petitioners the amount of Rs.4 lacs along with interest w.e.f. 07.02.2023 within a period of 60(sixty) days from the date a certified copy of the instant order is served upon the respondent No.2. The petitioners are directed to serve the certified copy of this order within 30 days from today. The said interest shall accrue from 07.02.2023 till the date of payment of the compensation.

JUDGE

Comparing Assistant