

GAHC010009992023



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

Case No. : WP(C)/438/2023

MUSTT. ANJUWARA BEGUM @ ANJUBARA BEGUM
W/O LATE BURHAN AHMED,
VILL.- NO. 1 BARPAYEK NELLIE,
P.S.- JAGIRAOD, DIST.- MORIGAON, PIN- 782410, ASSAM.

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 4 ORS.
REP. BY ITS CHAIRMAN CUM MANAGING DIRECTOR, HAVING ITS
REGISTERED OFFICE AT BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI-
1, KAMRUP (M), ASSAM.

2:THE CHIEF EXECUTIVE OFFICER
MORIGAON ELECTRICAL CIRCLE
DIST.- MORIGAON
ASSAM.

3:THE ASSISTANT GENERAL MANAGER
JAGIROAD ELECTRICAL SUB-DIVISION
DIST.- MORIGAON
ASSAM.

4:THE SUB-DIVISIONAL OFFICER
JAGIROAD ELECTRICAL SUB-DIVISION
DIST.- MORIGAON
ASSAM.

5:THE MEMBER
SECRETARY
ELECTRICAL LICENSING BOARD
INSPECTORATE OF ELECTRICITY
OFFICE OF THE ELECTRICAL INSPECTOR CUM ADVISOR

ASSAM
1ST FLOOR
WEST END BLOCK
HOUSE FED COMPLEX
DISPUR
GUWAHATI- 781006
KAMRUP (M).

6:THE CHIEF ELECTRICAL INSPECTOR-CUM -ADVISER (I/C)
GOVERNMENT OF ASSAM
INSPECTORATE OF ELECTRICITY
1 st FLOOR
WEST END BLOCK
HOUSEFED COMPLEX
DISPUR

GUWAHATI-781006

Advocate for the Petitioner(s) : Mr. H. K. Baruah

Advocate for the Respondent(s) : Mr. B. Choudhury, SC, APDCL

Date of Hearing and Judgment : 02.09.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

Heard Mr. H. K. Baruah, the learned counsel appearing on behalf of the petitioner and Mr. B. Choudhury, the learned Standing Counsel appearing on behalf of the respondents.

2. The instant writ petition has been filed by petitioner who is the wife of one Burhan Ahmed (since deceased) seeking compensation of an amount of Rs.10,00,000/- on account of the death of her husband due to electrocution.

3. Pursuant to the filing of the instant writ petition, this Court directed the respondent No. 6 to file an affidavit to bring on record the enquiry report. Accordingly, an enquiry report has been placed before this Court by way of an affidavit filed by the respondent No.6 dated 31.07.2024. In the said enquiry report, the facts leading to the death of the husband of the petitioner has been detailed out. In terms with the said enquiry report, on 03.06.2018 at around 3 p.m. the husband of the petitioner came in contact with the live 11 KV line fed to the 11/0.230KV, 16KVA Gaonlia transformer and received a severe electric shock and later on he expired.

4. In the said electrical report, it has also been mentioned that in terms with the report furnished by the respondent No.4, his version was that on 03.06.2018 at around 3 p.m. the husband of the petitioner got electrocuted at Gova Gaonlia and injured. The respondent No. 4 reported the incident upon receiving the information from the local people and field staff of APDCL rushed to the spot but the victim had already been shifted to Nakhola Model Hospital of Jagiroad. The victim thereupon was provided first aid and was referred to Guwahati Medical College & Hospital for better treatment. It was also mentioned by the respondent No. 4 in his report that as per the information received, the victim was trying to fix the HT fuse of a 16KVA transformer unauthorizedly without information to the concerned authority and got electrocuted and injured.

5. The electrical accident report also refers to the evidence of the people who were present whose evidence was recorded in the Court of the Additional Chief Judicial Magistrate, Morigaon. The evidence of one Shri Bhakta Pator who was the eye witness of the said incident was duly noted. In the

statement given by Shri Bhakta Pator, he had stated that on 03.06.2018 on account of disruption of the electricity connection, the Sub-Divisional Officer was informed by the people of the area and thereupon the respondent No. 4, had sent the husband of the petitioner who was a lineman to check the problem.

6. The said electrical accident report further observed that the incident happened on account of the APDCL authorities keeping the 11KV GOAB switch of the 11/0.230 KV, 16KVA Gaonlia transformer in direct condition which led to the electrocution of the husband of the petitioner. In the said report, it was also mentioned that the husband of the petitioner had an Electrical Workman's Permit issued by the Government of Assam and he was authorized only for house wiring work and as such, the husband of the petitioner ought not to have dared to risk his life to do 11KV repairing work for which he was not authorized. It is on the basis of those findings, the electrical accident report dated 30.06.2023 attributed negligence on part of both the husband of the petitioner as well as the APDCL Authorities.

7. In the backdrop of the above, this Court finds it relevant to take note of that AERC (Compensation to Victims of Electrical Accident) Regulation, 2019 (for short "the Regulation of 2019"). This Regulation of 2019 was made in terms with the mandate of Section 57(2) and 57(3) of the Electricity Act, 2003. In terms with said Regulation of 2019, Chapter III of the Regulation of 2019 deals with the compensation. Section 5 of the Regulation of 2019 stipulates that the Licensee/the Generating Company including the CPP shall be liable to pay compensation as specified in the Regulation of 2019 to the person affected or his dependants for loss of animal or human life or injury to human beings and animals in consequences of an electrical accident provided the electrical

accident is attributable to the fault/negligence of the Licensee/Generating Company/CPP. The proviso to the said Section stipulates that if the loss of human life is due to suicide or homicide, or injury to a human being is due to an attempt to commit suicide or homicide the licensee/generating company/CPP shall not be liable to pay any compensation in terms with the Regulation of 2019. The quantum of compensation payable as per Section 6 of the Regulation of 2019 is mentioned in Schedule B to the said Regulations.

8. This Court also finds relevant to refer to Section 9 of the Regulations of 2019 which stipulates that the right of any person to claim compensation as stipulated in Section 5 to 8 of the Regulation of 2019 shall not affect the right of any person to recover compensation payable under any other law of the time being in force. However the amount paid as compensation under the Regulation of 2019 shall be duly deducted from such compensation payable under any other law so as to avoid double payment by the licensee/Generating Company/CPP. This Section 9 of the Regulation of 2019 is very relevant inasmuch as the object behind the Regulation of 2019 can be very well discerned. In the opinion of this Court, upon perusal of the Regulation of 2019 and more particularly Chapter III and IV of the Regulation of 2019 shows that a victim or his dependants are to be provided prompt redressal on account of the damage, injury or death if it occurs on account of the fault of the licensee/Generating Company/CPP. The manner of filing applications, the urgent mandate for payment of compensation as per Section 18 of the Regulation of 2019 as well as the interest to be paid if there is a delay in terms with Section 20 of the Regulations are clear pointers to the requirement of prompt relief to redress the aggrieved if there is a fault on the part of the Licensee/Generating Company/CPP.

9. It is very pertinent to mention that the said Section 5 of the Regulation of 2019 does not mention that the electrical accident should be solely attributable to the fault/negligence of the licensee/Generating Company/CPP. It stipulates merely that the liability would accrue if there is an electrical accident attributable to the fault/negligence of the licensee/Generating Company/CPP. It is also pertinent to keep in mind that the provisions of the Regulation of 2019 are in the nature of welfare legislation.

10. The electrical accident report categorically mentions that there was a fault/negligence on the part of the APDCL authorities although not solely. Under such circumstances, taking into account the language used in Section 5 of the Regulations of 2019, this Court is of the opinion that the petitioner herein would be entitled to the compensation in terms with Schedule B of the Regulations of 2019.

11. A perusal of Schedule B of the Regulation of 2019 would show that the compensation to be payable on account of loss of human life is Rs. 4,00,000/-. In the opinion of this Court, therefore, the petitioner herein would be entitled to the amount Rs. 4,00,000/- from the APDCL Authorities.

12. Accordingly, this Court disposes of the instant writ petition thereby directing APDCL authorities and more particularly the Chairman cum Managing Director to ensure that the petitioner receives the compensation of the amount of Rs. 4,00,000/- within a period of one month from the date a certified copy of this judgment is served upon the Respondent No.1. It is further observed that in the circumstance, the amount directed to be paid within the time stipulated herein is not paid, the petitioner would be entitled to interest in terms with Section 20 of the Regulation of 2019.

13. Before parting, this Court observes that the petitioner herein would be at liberty to avail other remedies to seek compensation in spite of the compensation awarded herein.

14. With the above observations and directions the instant writ petition stands disposed of.

JUDGE

Comparing Assistant