

WP(C) 5617/2008

BEFORE HON'BLE

THE HON'BLE MR.JUSTICE A.POTSANGBAM

Heard Mr. P.K.Talukdar, learned counsel appearing for the petitioner, Mr.G.Soren , learned Govt. Advocate, appearing for the Respondent No.4 and Mr.D.Bhattacharjee, learned Standing Counsel, ASEB appearing for the respondent Nos. 1,2 and 3.

Affidavits on behalf of respondent Nos. 1 and 4 have been filed enclosing therein the report of the Sr. Electrical Inspector, Govt. of Assam dated 22.2.2010. The respondent Nos. 2 and 3 have also filed affidavit questioning the maintainability of the writ petition before this Court and also disputing the claim and contention of the writ petitioner.

The petitioner is the son of late Jotindra Mohan Das who died on 21.6.2008 due to electrocution at village Baregaon, Sorbhog, in the District of Barpeta. It is stated that on 21.6.2008 at about 9 AM while the victim, the late father of the petitioner, was walking along the road of Village Baregaon, Sorbhog, in the district of Barpeta, he came in contact with a snapped and live bare conductor of a 230 Volts two phase three wire overhead distribution line, drawn across the public road between the support Number 042/04 and 042/41 of the said overhead line. The overhead line was used to supply of power to the consumers from the distribution sub station at Baregaon owned by the power distribution company. It is stated that the bare aluminum conductor overhead distribution line snapped due to damage caused to its strand by bamboo trees standing near the overhead line. The snapped wire was alive at the relevant point of time. The late father of the petitioner, after having come into contact with the aforesaid live wire died instantaneously. Thereafter, the police came to the place of accident and Sorbhog P.S. U/D Case No.9/2008 was registered. The post-mortem was performed by the Doctor of Barpeta Civil Hospital and a certificate of death was issued on 26.7.2008. The further case of the petitioner is that he had approached, the respondent No.1, the Chairman, Assam State Electricity Board, for grant of compensation amount of Rs.5,00,000/- for the death of his father who died due to electrocution. Having failed to evoke any positive response from the respondents, this writ petition has been filed before this Court seeking a direction to the respondents to pay a sum of Rs.5,00,000.00, being the compensation amount for the death of the petitioner's father due to electrocution, which was caused due to negligence of respondent Nos. 2 and 3.

In the affidavit filed by the respondent No.4, the report of the Sr. Electrical Inspector, Govt. of Assam, has been annexed. In the aforesaid report, the Senior Electrical Inspector opined that the incident occurred due to non-compliance of the provisions of the Indian Electricity Rules, 1956. The opinion of the Sr. Electrical Inspector is quoted hereinbelow :

From the facts and circumstances leading to the accident it appears that the accident occurred due to non compliance of the provisions of the Indian Electricity Rules, 1956, namely rules 3(7), 29(1), 29(2), 50(1) and 91(1) of the Indian Electricity Rules, 1956 by the owner of the line and sub station i.e. the Power Distribution Company. The owner of the line and sub station failed in its duty to install, protect and maintain the electrical installation in such a manner as to ensure safety of human beings, animals and property.

Mr.Bhattacharjee, learned counsel appearing for the Respondent Nos. 1,2 and 3 submits that as per office Memorandum dated 22.12.2010 the Assam State Electricity Board has fixed the following amount of compensation for those killed due to electrocution:

- 2.Rs. 1.50,000 lakhs for those above 20 years
and up to 55 years
- 2.Rs.1,00,000 for those above 55 years.

Mr.Bhattacharjee, learned counsel for the respondents, ASEB is not able to give any satisfactory explanation as to why the two distinct amount of

compensation should be fixed- one for age group from 20 years up to 55 years and another in the age group above 55 years. In some cases, the multiplier system is invoked, particularly in cases where the amount of compensation is not fixed by the department or the organization itself. But in the instant case, the amount of compensation has already been fixed in the office Memorandum dated 22.12.2008 issued by ASEB. In absence of any challenge of the aforesaid office memorandum before the Court on the ground of unreasonableness, the amount of compensation is to be determined within the parameter of Office Memorandum dated 22.12.2008.

Upon consideration of the submissions of the learned counsel appearing for the parties and on perusal of the report of the Sr. Electrical Inspector which held the respondent Nos. 2 and 3 guilty of negligence resulting in violation of the provisions, namely rules 3(7), 29(1), 29(2), 50(1) and 91(1) of the Indian Electricity Rules, 1956, I am of the opinion that the father of the petitioner died due to negligence on the part of the respondents and accordingly, the petitioner is entitled to compensation. In absence of any justification for prescribing two different amounts of compensation, as discussed above, and also on consideration of the fact that the death of the petitioner's father was caused due to negligence of the respondents, ASEB, equity demands that the highest amount of compensation provided in the Office Memorandum dated 22.12.2008, i.e. Rs.1,50,000.00 should be given to the petitioner. Accordingly, it is ordered that the respondents-ASEB shall pay an amount of Rs.1,50,000.00 (Rupees one lakh fifty thousand) only to the petitioner within a period of 3 months from the date of receipt of a certified copy of this order.

After the order is passed, Shri D.Bhattacharjee, learned counsel appearing for the respondent Nos. 1, 2 and 3 submits that the respondents may be allowed to deposit the amount of compensation as directed above, to the Registry of this Court. The prayer is allowed. The Registry shall release the amount so deposited by the respondents as ordered above, to the petitioner on being identified by the learned counsel appearing for the petitioner.

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