
(2004) 07 BOM CK 0047

In the Bombay High Court

Case No : Writ Petition No. 3644 of 2000

Anandrao Gaidhane and Others

APPELLANT

Vs

Maharashtra State Electricity Board and Another

RESPONDENT

Date of Decision : 14-07-2004

Acts Referred:

Citation : (2005) 1 ACC 773 : (2004) 4 ALLMR 709 : (2005) 1 BomCR 294 :
(2004) 4 MhLj 539

Hon'ble Judges : D.D. Sinha, J;B.P. Dharmadhikari, J

Bench : Division Bench

Advocate : N.S. Talmale, for the Appellant; R.K. Deshpande, for the Respondent

Final Decision : Allowed

Judgement

D.D. Sinha, J.—Rule. Rule returnable forthwith and heard by consent of the parties.

2. The learned Counsel for the petitioners states that one Krushna s/o Anandrao Gaidhane, who was son of petitioner Nos. 1 and 2 and brother of petitioner Nos. 3 and. 4, was doing construction work on daily wages and he came in contact with live electric wire at Rajiv Gandhi Square, Takiya Ward, Bhandara and died due to electrocution. At that time, the age of the deceased, was 22 years. The incident in question took place on 12-8-1999 and the deceased died on 14-8-1999 in the hospital.

3. The learned Counsel for the petitioners contended that in view of the Circular dated 28-1-993 issued, by the Respondent-Board, the petitioners are entitled to receive an amount of Rs. 60,000/- as compensation for the death of their son and brother from the respondent-Board. It is further contended that the petitioners have made a representation to the respondent-Board, for grant of compensation to the tune of Rs. 60,000/- in view of the above referred Circular, however, the respondent-Board did not take any steps in that regard and, therefore, the petitioners are constrained to approach this Court for directions

against the respondents, to pay compensation to the petitioners to the tune of Rs. 60,000/- on account of the death of the victim - Krushna.

4. The learned Counsel for the petitioners contended that the controversy in issue is no more res integra and is concluded by the Judgment of the Apex Court in the case of Shashikalabai (Smt) Vs. State of Maharashtra and Another, .

5. Mr. R. K. Deshpande, the learned Counsel appearing on behalf of the respondent-Board, does not dispute the factual aspect of the matter, however, Writ Petition No. 3644 of 2000 decided on 14-7-2004. (Nagpur) states that the Circular dated 28-1-1993 issued by the respondent-Board is not applicable to the outsiders and in the instant case, the deceased-Krushna was neither employed by the respondent-Board, nor the Board, has hired his services for doing any job and, therefore, the petitioners are not entitled, to get the compensation as prayed for.

6. Considered the contentions canvassed by the respective learned counsel and perused the Judgment of the Apex Court referred to above. Perusal of the Judgment of the Apex Court shows that in the similar set of circumstances, the Apex Court, in the above referred judgment, considered the case of the claimant for grant of compensation in view of the Circular dated 28-1-1993 and after considering the same, in para No. 2 of the said judgment, observed thus:

"2. In respect of the fatal accident of the appellant's husband who came in contact with a live electric wire and died of shock, the High Court has given compensation of Rs. 30,000 on the basis of the circular of the Maharashtra State Electricity Board, Respondent 2 herein, dated 5-4-1979. Death occurred on 18-3-1991. However, there was correspondence between the appellant and the respondents from 1991 to 1994 and the actual formal application was made on 14-2-1994, by which time the new circular of 28-1-1993 had come into force. Under the new circular of 28-1-1993, the compensation amount has been increased from Rs. 30,000 to Rs. 60, 000, The circular also states that it shall come into force with immediate effect and the compensation cases already closed shall not be reopened. Since the present case was not closed on the date of the circular coming into effect, the appellant should have been granted the benefit of the new circular."

7. The law laid down by the Apex Court in the above referred judgment is squarely applicable to the issue in question and concludes the issue in question. So far as applicability of the Circular dated 28-1-1993, issued by the respondent-Board, is concerned, the said Circular is squarely applicable to the present petitioners and the stand taken by the respondent-Board is completely misconceived and devoid of substance. In the instant case, the deceased - Krushna came in contact with a live electric wire on 12-8-1999 and he died on 15-8-1999 in the hospital, when the Circular dated 28-1-1993 was very much in force. There is no doubt about this fact and, therefore, in our considered view, the petitioners are entitled to get compensation of Rs. 60,000/- with interest

thereon, from the respondent-Board.

8. In the result, the writ petition is allowed. The respondent-Board is directed to pay an amount of Rs. 60,000/- as compensation to the petitioners within a period of eight weeks from today and shall pay interest at the rate of 12% p. a. from the date of notice/representation made by the petitioners to the respondent-Board, dated 15th September, 1999 till the payment of entire amount of compensation is made to the Petitioners.

9. Rule made absolute in the above terms. No order as to costs.