
(2006) 12 OHC CK 0053

In the Orissa High Court

Case No : Writ Petition (Civil) No. 15429 of 2005

Bharat Nath and Others

APPELLANT

Vs

CESCO

RESPONDENT

Date of Decision : 20-12-2006

Acts Referred:

Citation : (2007) 1 OLR 315 Supp

Hon'ble Judges : I. Mahanty, J;A.K. Ganguly, J

Bench : Division Bench

Advocate : S.K. Sarangi, R.R. Mohanty and B.K. Behera, for the Appellant;
Bibhudhendra Dash and P.K. Mohanty, for the Respondent

Final Decision : Allowed

Judgement

I. Mahanty, J.—The Petitioners in this writ application are the husband and sons of late Urmila Nath who died due to electrocution coming in contact with the live electric wire lying on the agricultural field and they have filed this application claiming compensation from the CESCO-licensee.

2. In the writ application, the Petitioners have averred that the deceased-Urmila Nath on 26.5.2005 had gone to collect cow-dung from the field for the purpose of using the same as fuel and while she was collecting the cow-dung she came in contact with lose 11 KV live electric wire which lying on the field. After coming in contact with the live electric wire, she was burnt completely and died at the spot. The Petitioners have annexed the Photograph of the incident, copy of the F.I.R., Post mortem report, death certificate issued by the local authority and certain press reports about the incident, to the writ application. The Petitioners allege that the Opp. Parties were negligent by not maintaining the transmission system of 11 K.V. line properly for which the electric wire snapped on the agricultural field resulting in the death of Urmila Nath. The Petitioners have further averred that Late Urmila Nath was contributing Rs. 1500/ - per month being engaged as a daily laourer and on that basis, they have claimed a compensation of Rs. 3,00,000/ -.

3. The Opp. Parties in their counter affidavit have categorically admitted that late Urmila Nath died coming in contact with 11 KV (bare conductor) live line at village Andhal, but the defence that the Opp. Parties seek to advance is that the electric conductors had fallen in the field due to continuous theft of electric conductors and after the alleged theft, the culprits might have left the live line conductor which was lying on the ground. The Opp. Parties have further contended that there has been continuous theft of electric conductors from 11 KV line for which they lodged number of F.I.Rs for necessary action and for the death of Urmila Nath, no negligence can be attributed to the CESCO. It is the stand of the Opp. Parties that late Urmila Nath was never working as a daily labourer and she was a mere house-wife and she has no income of her own. It is further averred in the counter affidavit that the husband of late Urmila Nath is a daily labourer having one acre of landed property which he is cultivating personally.

4. In the light of the rival contentions, it is clear that late Urmila Nath died due to electrocution coming in contact with bare conductor (live line) which was lying on the agricultural field in village Andhala which is an undisputed fact. The death due to electrocution being the undisputed fact, the only question that remains to be decided in this writ application is that whether the CESCO-licensee can shift its responsibility or liability by raising that unfortunate occurrence has occurred due to theft of electric conductors by the culprits who have left the (bare conductor) live line at the site.

The opposite parties have stated that their authorities have lodged F.I.R. in the local Police Station. While the fact is admitted in the counter affidavit, if there is any negligence on the part of the police authorities in not taking any action on the F.I.R. lodged by the licensee, it is open to the licensee to take appropriate steps available to them in law to eliminate the inaction of the police authorities. But, by merely lodging an F.I.R. against the alleged culprits, cannot in law absolve the licensee of their responsibility to the general public to maintain their transmission system in the manner so as not to endanger the public safety.

5. There being no other disputed question of facts in this case, following the ratio of the decision of this Court in the case of *Nirmala Nayak and Ors. v. Chairman-cum-Managing Director, Grid Corporation of Orissa Ltd. and Anr.* OJC No. 6339 of 1997, disposed of on 13.4.2005, we are of the view that the ends of justice would be better served if a compensation of Rs. 1,50,000/- (Rupees one lakh fifty thousand) is awarded in favour of the Petitioners and we order accordingly. The said compensation shall be paid to the Petitioners with simple interest at the rate of 6% per annum from the date of death of the deceased till the date of actual payment. This Court further directs the Opp. Party to make such calculation and deposit the said amount either in cash or by way of cheque with the Registrar (Judl.) of the Court within a period of four weeks from today. The Registrar (Judl.) thereupon shall send notice to Petitioner No. 4. The Petitioner No. 4 must produce some material or evidence to show that he is the husband of

the deceased-Urmila Nath. After being satisfied about the relationship between the deceased and the Petitioners, the Registrar (Judl.) shall disburse the amount to Petitioner No. 4 on proper identification.

With the aforesaid observations and directions, the writ petition is allowed to the extent indicated above, No costs.

A.K. Ganguly, J.

6. I agree.