
(2014) 02 PAT CK 0019
In the Patna High Court
Case No : LPA No. 668 of 2013

Bihar State Electricity Board and Others APPELLANT
Vs
Munia Devi RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2015) 2 PLJR 781

Hon'ble Judges : Navin Sinha, J;Vikash Jain, J

Bench : Division Bench

Advocate : Vinay Kirti Singh, Advocate for the Appellant; Niraj Kumar, Advocate for the Respondent;

Final Decision : Allowed

Judgement

Navin Sinha, J.

1. I.A. No. 3868 of 2013 has been filed to condone the delay of six days only. We have considered the duration of delay and the question involved for our consideration not only having financial implications for the appellant with regard to public money but also the possibility of the order under appeal being cited as a precedent, we consider it proper to condone the delay and take up the appeal for consideration on merit. The husband of the respondent died of electrocution when a sagging electrical wire came in contact with the truck he was driving on 29.5.2003. The learned Single Judge granted compensation of Rs. 4 lakhs. We have gone through the counter affidavit of the Board filed before the Writ Court as also the First Information Report and the Post Mortem Report confirming death by electrocution. There are no disputed facts involved with regard to the responsibility of the appellant in the matter.

2. Learned Counsel for the appellant submits that the Circular of the Board dated 2.7.2012 issued before the order under appeal dated 25.7.2012 provided for a compensation of maximum Rs. 2 Lakhs in such accident.

3. Counsel for the respondent opposed the submission urging that the order

under appeal requires no interference once the negligence of the Board is apparent.

4. It does not appear from the order under appeal that the Circular dated 2.7.2012 was brought to the attention of the learned Single Judge. Simultaneously, we do not find that the respondent had questioned the circular at any time much less relied upon any instruction of the Board in this regard except for certain judicial precedence with regard to compensation on account of electrocution. The compensation awarded under the precedent noticed was either lesser or at par with the circular dated 2.7.2012.

5. While the appellant is responsible for the accident the payment has to be made from the public exchequer. It has therefore to be reasonable in so far as the jurisdiction of the Writ Court is concerned. The circular dated 2.7.2012 was not placed before the learned Single Judge. If the Board has laid down the maximum amount of compensation to be awarded in such accident and there is no challenge to the circular, it shall not be proper exercise of jurisdiction to grant in excess of the same.

6. We, therefore, modify the order under appeal and direct a total compensation of Rs. 2 lakhs to be paid to the respondent within four weeks from today. If it is not paid within four weeks, the respondent shall be entitled to interest @ 10% from today till the date the actual payment beyond the time specified.

7. All other directions of the learned Single Judge are accordingly set aside. The appeal is allowed with modification.