

**(2021) 07 GAU CK 0131**

**In the Gauhati High Court**

**Case No : Writ Petition (Civil) No. 7061 Of 2018**

John Ronghang And Anr.

APPELLANT

Vs

Assam Power Distribution Company Ltd. And 4 Ors

RESPONDENT

**Date of Decision : 19-07-2021**

**Acts Referred:**

Constitution Of India, 1950 — Article 226  
Electricity Act, 2003 — Section 161

**Citation : (2021) 07 GAU CK 0131**

**Hon'ble Judges : Manish Choudhury, J**

**Bench : Single Bench**

**Advocate : D Borah, D Bhattacharya**

**Final Decision : Allowed**

## **Judgement**

1. The Court proceedings have been conducted through online court proceeding services.

2. The subject-matter in this writ petition filed under Article 226 of the Constitution of India is the death of one Rajen Ronghang, stated to have occurred in an accident due to electrocution, and a direction to the respondent APDCL authorities has been sought for to grant adequate compensation for such death.

3. The relevant background facts, in brief, leading to the institution of the writ petition, have been projected as follows :

3.1. The petitioner no. 1 and the petitioner no. 2 are the father and the mother respectively of said Rajen Ronghang. The family of the petitioners

resides in Village - Putsari, Post Office â?" Putsari, Police Station â?" Baithalangso, District â?" Karbi Anglong. It has been stated that on 31.05.2015, their son, Rajen Ronghang had gone to Langaldang and there he met one Line

Man belonging to Donkamokam Electrical Sub-Division, Kanch

Electrical Circle of the respondent APDCL. The said Line Man called Rajen Ronghang near an electric pole to assist him in repairing electrical

works. The said Line Man was trying to restore electric supply to the said village at that point of time. While assisting the said Line Man Rajen

Ronghang received electric shock by coming in contact with a live electric wire of high voltage and he was trapped. On hearing his screams, the

villagers came to the spot and tried to disengage him from the electric pole with the help of dry bamboo sticks. The victim suffered electric burns. He

was, thereafter, taken to the Ouguri Dispensary as his left knee and right hand received severe burn injuries. Rajen Ronghang was thereafter, taken to

the Gauhati Medical College & Hospital (GMCH). At the GMCH, he was given emergency treatment. Finding his condition serious, he was admitted

and kept as an indoor patient in the Burn unit of the GMCH on and from 31.05.2015.

3.2. It is the case of the petitioners that since his admission in the GMCH, his treatment continued till 01.07.2015. During his treatment, the left hand

of Rajen Ronghang had to be amputated due to severe burn injury. Despite such amputation of his left hand, the doctors at the GMCH could not save

his life. It was on 01.07.2015 i.e. after 31 days from the date of the incident, Rajen Ronghang breathed his last at the GMCH.

3.3. With regard to the death of Late Rajen Ronghang, a General Diary (G.D.) Entry no. 21 was registered at Bhangagarh Police Station on

02.07.2015. Pursuant to the said G.D. Entry no. 21, the post-mortem examination on the dead body was conducted at the GMCH on 02.07.2015. As

per the post-mortem examination report, there were severe burn injuries in the various parts of the body. It was opined that the death was due to

septicaemia as a result of the burn injuries sustained all over the body, as described therein, following ante-mortem electrocution. All burn injuries

were dermoepidermal in depth covering approx. 30% of the total body surface area. An application reporting the death was made and a death

certificate recording the death of Late Rajen Ronghang on 01.07.2015 was issued by the Registrar of Birth and Death, Ouguri Mini PHC, Karbi

Anglong vide Death Certificate dated 04.07.2015.

4. According to the petitioners, the deceased was aged about 25 years and was a

daily wage earner earning about Rs. 9,000/- per month. The petitioners have stated that their other son, Sapro Ronghang also died due to illness prior to the death of Rajen Ronghang. It has been contended that they were dependent upon the deceased. It is the case of the petitioners that when they approached before the respondent APDCL authorities, no compensation had been paid to them despite the fact that the death of the deceased was caused due to electrocution for faults attributable on their part. As no response was received from the respondent APDCL authorities with regard to grant of compensation, the petitioners have approached this Court by way of this writ petition seeking a direction to grant adequate compensation for the death of their son.

5. Heard Mr. D. Borah, learned counsel for the petitioners. Also heard Mr. D. Bhattacharjee, learned Standing Counsel, APDCL for respondent nos.

1-4 and Mr. R. Talukdar, learned Junior Government Advocate for respondent no. 5.

6. Mr. Borah by referring to the averments made in the writ petition, as mentioned above, has submitted that the electrical accident was caused due to faults on the part of the respondent APDCL authorities and there was no negligence on the part of the victim. Referring to the Electrical Accident

Enquiry Report submitted by the respondent no. 5, it has been submitted by him that from the said Report, it is established that the death was due to

carrying out repairing works of DTR without proper planning and without undertaking due care and preventive measures. It was at the insistence of

the Line Man, the deceased had extended his assistance to him without knowing about the consequence he was likely to face. Mr. Borah has further

submitted that despite occurrence of the accident in the year 2015, the respondent authorities neglected to consider the matter in the right manner and

have not provided due compensation to the family of the victim. When the Report, submitted by a Senior Electrical Inspector jointly with a Electrical

Inspector, has clearly attributed the fault on the part of the respondent APDCL authorities indicating that the burn injuries sustained by the victim were

due to electrocution which ultimately resulted into his death on 01.07.2015 after fighting for his life since 31.05.2015, it was incumbent on the part of

the respondent APDCL authorities to provide due compensation forthwith to the family of the deceased.

7. Mr. Bhattacharjee, learned Standing Counsel appearing for the respondent APDCL authorities has, on the other hand, submitted that from the

Electrical Accident Enquiry Report, it is evident that the fault was also partly attributable to the deceased as without any instruction from the Line

Man, he had climbed an electric pole and tried to do the jumpering works of a 11 KV over head line himself. The case of the petitioners has, he

submits, to be examined in the context of the aforesaid fact situation.

8. Mr. Talukdar, learned Junior Government Advocate has submitted that after the accident was reported to the respondent no. 5, an enquiry was

caused through a Senior Electrical Inspector with the assistance of an Electrical Inspector, in terms of the provisions of Section 161, Electricity Act,

2003 and thereafter, an Electrical Accident Enquiry Report had been duly submitted. The said Report has been annexed to the affidavit filed on behalf

of the respondent no. 5.

9. I have considered the submissions made by the learned counsel for the parties and also perused the materials on record.

10. The respondent APDCL authorities has submitted its response through an affidavit-in-opposition filed on 07.04.2021 wherein it is averred that the

deceased climbed one 11 KV over head pole structure unauthorisedly. He neither informed nor took permission from the Line Man of the respondent

APDCL authorities to climb the pole. When the deceased climbed the pole, no person from the APDCL authorities was present at the site. It has

been averred that the accident on 31.05.2015 occurred solely due to an unauthorized act on the part of the victim and not because of any fault or

negligence on the part of the APDCL authorities. With the above projections, it has been contended that the responsibility for the burn injuries

sustained by the victim which ultimately resulted into his death, cannot be affixed on the respondent APDCL authorities. The respondent APDCL

authorities have not, however, denied about causing enquiry by the office of the Chief Electrical Inspector, Assam into the incident occurred on

31.05.2015.

11. Section 161 of the Electricity Act, 2003 has prescribed that if any accident occurs inter alia in connection with the generation, transmission,

distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results in

loss of human or animal life, such person shall give notice of the occurrence and of any such loss caused by such accident to the Electrical Inspector.

The Electrical Inspector is to enquire as to the cause of the accident affecting the safety of the public, which may have occasioned by or in connection

with the generation, transmission, distribution, supply or use of electricity.

12. The respondent no. 5 who is authorised under Section 161, Electricity Act, 2003 to enquire into such an electrical accident and to submit a report,

conducted an enquiry in respect of the electrical accident that occurred at around 02-00 p.m. on 31.05.2015 in Village - Langerdang, Police Station -

Baithalangso in connection with three phase 11 KV over head transmission line. The enquiry was caused by a Senior Electrical Inspector with the

assistance of an Electrical Inspector, by making a field inspection and by meeting the residents residing near the place of the electrical accident.

Thereafter, an Electrical Accident Enquiry Report came to be submitted. The respondent no. 5 has filed an affidavit wherein a copy of the Electrical

Accident Enquiry Report submitted by the Senior Electrical Inspector and the Electrical Inspector, on 08.02.2019, has been annexed.

13. The Electrical Accident Enquiry Report has stated that site verification was done by the said two officials with the assistance of nearby residents

of the locality. As per the findings of spot verification and a report of the Sub-Divisional Engineer, Donkamokam Electrical Sub-Division, APDCL, it

was reported that on 31.05.2015 one DTR of 25 KVA transformer at Putsari Hindu Gaon was out of order and the local people reported the matter to

the APDCL office at Umpenai Sub-Station. In response to the said complaint, one Line Man viz. Sri Morning Teron, an outsourced Sahayak under the

respondent APDCL, had gone to the village to check the DTR. There was a gang switch which was around 800 metres from the DTR location and in

between the DTR and the gang switch, there was a four pole structure at Langerdang from where 11 KV line to the DTR was tapped. Before

repairing the said DTR, the said gang switch was kept open and the jumper connection at four pole structure was also disconnected for safety

purpose. After completing the rectification/repairing works of the DTR, the Line Man had gone for cleaning his hands. In the meantime, the deceased

appeared to have climbed up the four pole structure and sustained injuries as some unknown person closed the gang switch in the meantime. As a

result, the deceased sustained electrical burn injuries. It has been reported that had the repairing works of DTR been performed by the designated personnel with proper planning and prior understanding with clarity and had appropriate and safe preventive measures been taken by the outsourced Sahayak working under the respondent APDCL before repairing the transformer works, the electrical accident would not have taken place. It is also mentioned that from the fact and circumstances leading to the electrical accident, the electrical accident appeared to have taken place due to non-compliance of Regulation 3 and Regulation 19(3) of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 on the part of the respondent APDCL authorities. It has been recommended that the provisions of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 should be strictly complied with by the owner of the supply line to ensure safety and such work shall be performed with appropriate compliance and prior understanding and clarity. It has further been recommended that before going to the work site all equipments and tools shall be inspected and checked for correct operation.

14. It has, thus, clearly emerged from the Electrical Accident Enquiry Report submitted in respect of the electrical accident dated 31.05.2015 that the electrical accident which resulted in burn injuries of the victim leading ultimately to his death due to septicaemia, had occurred due to sudden closure of the gang switch located at a far distance from the four pole structure by some unknown person. The findings of the Electrical Accident Enquiry Report have not been assailed by the respondent APDCL authorities. The principle of strict liability has been explained by the Honâ??ble Supreme Court of India in M.P. State Electricity Board vs. Shail Kumari, reported in (2002) 2 SCC 162 and as the learned counsel for the parties have not disputed such position, no dilation is required in that regard.

15. From the Electrical Accident Enquiry Report, it is also evident that the electrical accident happened suddenly and the victim was in no position to take adequate care and protection to avert the situation. From the causes of the accident, as reported in the Electrical Accident Enquiry Report, it has clearly emerged that no fault can be attributed to the deceased whereas there was omission to follow statutory protective measures on the part of the

owner of the electrical supply. The provisions of Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010

were found to have been contravened by the supplier of the electricity i.e. the respondent APDCL. It is, thus, evident that the deceased in the case in

hand had met his death due to acts attributable on the part of the respondent APDCL authorities. Thus, in such situation, it is not open for the

respondent APDCL authorities in the face of their own inaction and omission, to deny grant of compensation to the family of the deceased.

16. The Board of Directors of the respondent APDCL by an Office Memorandum dated 18.12.2013 had notified different quantum of compensation

payable to the next-of-kin of the victims in respect of fatal electrical accidents. In the said Office Memorandum dated 18.12.2013, a detailed

procedure was laid down in respect of disbursal of such compensation. In supersession of the Office Memorandum dated 18.12.2013, another Office

Memorandum came to be issued on 25.09.2017 where a uniform rate of compensation was notified. Subsequently, the Assam Electricity Regulatory

Commission (AERC) has notified the AERC (Compensation to Victims of Electric Accidents) Regulations, 2019 where a detailed procedure has

again been laid down as regards electrical accidents and quantum of compensation payable for loss of human life/animals, etc.

17. As per the Office Memorandum dated 18.12.2013, the compensation payable in respect of a victim above 20 years of age and upto 55 years of

age was Rs. 1.50 lakh. The amount of compensation, as per the Office Memorandum dated 25.09.2017, was at a uniform rate of Rs. 2.50 lakh

irrespective of the age of the victim and the said uniform rate of compensation came into force w.e.f. 01.04.2017. It has been laid down therein that

the above amount of compensation shall be disbursed by the Chief Executive Officer of the concerned Electrical Circle within 48 hours of the

accident, based on the preliminary satisfaction of the field officers that a prima facie fault of the APDCL was established. Duty was also cast on the

concerned officer in the APDCL to send notice and report of the electrical accident immediately to the Electrical Inspectorate, Government of Assam

strictly in terms of the mandatory provisions contained in the Electricity Act, 2003 and the AERC Regulations. As per the Office Memorandum dated

07.11.2019, the Assam Electricity Regulatory Commission has notified the AERC (Compensation to Victims of Electrical Accidents) Regulations,

2019 providing for a detailed procedure as well as the quantum of compensation payable for loss of human life/animal and also injury to human, where the accident is attributable to the fault/negligence of APDCL authorities.

18. This writ petition has been preferred in the year 2018. It is not the case of the respondent APDCL authorities that the electrical accident was not

within their knowledge. The findings recorded in the Electrical Accident Enquiry Report submitted in respect of the electrocution case in hand have

not been challenged in any manner by the respondent APDCL authorities till date nor have the findings made in the said Electrical Accident Enquiry

Report been traversed in the affidavit-in-opposition filed by the respondent APDCL authorities in the instant case. From the facts that have emerged

from the above discussion in respect of the electrical accident, the respondent no. 5 had submitted his Electrical Accident Enquiry Report only on

08.02.2019 in respect of the fatal electrical accident that occurred on 31.05.2015. What took the respondent authorities such long period of time to

enquire into the electrical accident and thereafter, to submit the Electrical Accident Enquiry Report has not been explained in either of the affidavits of

the respondent authorities. The procedure prescribed in all the above Office Memoranda had/has mandated that it was/is incumbent on the part of the

respondent APDCL authorities to settle a claim of a fatal electrical accident within a prescribed period of time from the date of receipt of information

about the same on the basis of the documents/records indicated therein. From the discussions made above, it is clearly demonstrated that the

settlement of claim in respect of the fatal electrical accident in the case in hand has not been settled expeditiously as indicated in the Office

Memoranda (supra). While the Office Memorandum dated 18.12.2017 had prescribed the period of settlement as 60 (sixty) days, the Office

Memorandum dated 07.11.2019 has prescribed a period of 120 (one hundred twenty) days as the period of settlement from the date of occurrence of

the event. Though the petitioners have claimed that they approached the respondent APDCL authorities they have failed to substantiate the same with

any material.

19. It is contended on behalf of the respondent APDCL authorities that as the fatal accident under reference had occurred in the year 2015, the

compensation prevailing at that time would only be payable to the victim. As

there is inordinate and inexplicable delay on the part of the respondent APDCL authorities in disbursal of the compensation amount fixed by its own norms to the family of the victim in the case in hand, this Court does not find any merit in the said submission advanced on behalf of the respondent APDCL authorities as regards the quantum of compensation payable as per the Office Memorandum prevailing at that point of time. It is also noticed from the Office Memoranda (supra) that there has been periodical enhancement in the amounts payable for loss of human life. From such periodical enhancement in respect of the compensation amount itself, it is clearly discernible that the respondent APDCL authorities have themselves found that there are needs for upward revision periodically in the compensation amounts for different kinds of electrical accidents after taking into account all the relevant factors inasmuch as a reasonable amount of compensation at a particular point of time might not be reasonable at the later point of time. Such periodical enhancement might be due to various factors like the changes in the cost of living index, the rates of inflation, etc. The respondent APDCL authorities have formulated the guidelines providing for compensation amounts for different hazards to victims of electrocution and it cannot be denied that disbursal of such compensation amount should be prompt and immediate to enable the victims and/or the victim's family to overcome the sudden loss and to deal with the untoward situation which have befallen on them suddenly due to such electrocution death which is albeit sudden and unforeseen. In the event the disbursal of the compensation amount is not made immediately and there is delay in disbursal of the same, it is incumbent on the part of the authorities to offset the situation for the victims and/or victim's family by disbursal of the amount of compensation prevailing on the date of such disbursal.

20. The Office Memorandum dated 07.11.2019 has prescribed an amount of Rs. 4,00,000/- for loss of human life. While prescribing the amount of Rs. 4,00,000/- as compensation, it has also been prescribed that in the event a claim is not settled within a period of 120 (one hundred and twenty) days from the date of occurrence of the electric accident, the delay in payment of compensation shall result in an additional interest of 12 % per annum on the amount. A reference to the order dated 03.02.2021 passed in the writ petition, W.P.(C) No. 1921/2018 [Padmeswar Koch vs. Assam Power

Distribution Company Ltd and 5 others] can be made in this connection.

21. In the light of the above discussion, this Court is of the considered view that it is the compensation which has been prescribed in the Office

Memorandum dated 07.11.2019, will be payable in respect of the fatal electrical accident under reference. Accordingly, the respondent APDCL

authorities are directed to make payment of an amount of Rs. 4,00,000/- as compensation to the petitioners along with an interest of 12% per annum

on the said amount. Having due regard to the factual situation obtaining in the case in hand, it is directed that the respondent APDCL authorities shall

calculate the interest at 12% per annum w.e.f. 08.02.2019 i.e. the date of submission of the Electrical Accident Enquiry Report by the respondent no.

5 and the same shall be paid to the petitioners viz. Sri Jhon Ronghang and Smti Kareng Phangchopi upon their due identification within a period of 2

(two) months from the date of receipt of a certified copy of this order by the respondent APDCL authorities. Notwithstanding such payment, it would

be open for the petitioner to pursue private law remedy for further compensation.

22. The writ petition stands allowed to the extent mentioned above. There shall, however, be no order as to cost.