

(2009) 12 GAU CK 0025
In the Gauhati High Court
Case No : Writ Petition (C) No. 3635 of 2006

Md. Ayub Ali and Others

APPELLANT

Vs

The Assam State Electricity Board and Others

RESPONDENT

Date of Decision : 21-12-2009

Acts Referred:

Electricity Rules, 1956 — Rule 29(1), 91(1)

Citation : (2010) 2 GLD 160

Hon'ble Judges : P.K. Musahary, J

Bench : Single Bench

Advocate : Begum Roushanara Sultana and Md. Korban Ali, for the Appellant; H. Rahman, Government Advocate for Assam and B.D. Das, SC for ASEB, for the Respondent

Final Decision : Allowed

Judgement

P.K. Musahary, J.—None appears for the petitioner. Heard Mr. B.D. Das, learned standing counsel, for respondent ASEB, and Mr. H. Rahman, learned Government Advocate, Assam.

2. It is stated in the petition that on 13.10.2003, at about 3 a.m., one Osman Ali alias Osman Gani, aged about 50 years, while returning back to his home, from fishing, at village Ratanpur, was electrocuted and he died when his feet fell on the wire of live electric line that was lying on the way.

3. The petitioners, herein, are the sons and daughters of late Osman Ali alias Osman Gani. They claim compensation to the tune of Rupees Ten lakhs as the said accident/incident which resulted in the death of their father, according to them, took-place, due to the gross negligence on the part of the ASEB authorities. They also stated that their father was the sole bread earner of the family. It is further stated that they informed the accident/incident to the Officer-in-charge, Hajo Police Station and also to the Sub-Divisional Officer, ASEB, Hajo, and they, later on, filed application for compensation before the authorities

concerned which, however, failed to evoke any response from the respondent authorities.

4. The respondents 1-4 have filed a joint counter-affidavit denying the allegation made in the writ petition. They have also denied its liability to pay compensation inasmuch as they contend that there was no negligence on the part of the authorities concerned supplying the power/electricity.

5. At the time of hearing, Mr. Rahman, learned Government Advocate, produced a copy of letter bearing No. CEIA/EAR- 459/2008/561 dated 4.4.2008 under the signature of Chief Electrical Inspector-cum-Adviser, Government of Assam, Guwahati, along with an enquiry report on the aforesaid accident. The said report is prepared and signed by Sri A.C. Khataniar, Senior Electrical Inspector, Zone-II, HQ, Government of Assam, Guwahati, and by Sri B.K. Deka, Electrical Inspector (HQ), Government of Assam, Guwahati. The operative portion of the aforesaid report is reproduced below:

The enquiry report is prepared based on the detail report of accident collected from concerned ASEB official, statement of witnesses, post mortem report and police U/D report of the victim.

B. BRIEF DESCRIPTION : On 13.10.2003, about 3:30 a.m. the victim Osman Gani of about 50 years of age, came in contact with the snapped L.T. conductor lying on the village road while he crossed the said road on the way to return home from the bank of the river and he received shock and thus electrocuted.

C. INFORMATION PROVIDED BY WITNESSES EXAMINED : As stated by Sub-Divisional Engineer, Hajo Electrical Sub-Division, ASEB/LADCL, Hajo, under whose jurisdiction the said area falls, the victim Osman Gani of about 50 years of age was dead in contact of snapped 230 volts line near the road. The reason of accident as stated by the Sub-Divisional Engineer was that the victim had carried the bundles of jute sticks and he touched the live L.T. Conductors causing severe short circuit and snapped of the conductor occurred.

Sri Anil Das, a senior sahayak of Hajo Electrical Sub-Division has revealed that the victim Osman Gani came in contact with the live snapped L.T. Conductor lying on the road side of Ratanpur village while he tried to cross the said road on way to return to his home with some wet jute sticks. He also revealed that there was a storm in the night of accident due to which the snap of L.T. Conductor occurred. As per the statement of Sri Anil Das, there was no proper main switch/cut outs in the sub-section from where power was supplied in that area.

Abdul Latif, Md. Azijur Rahman, Md. Nazrul Islam, Md. Intazul Haque and Ahmed Hussain, who are some of the villagers of Ratanpur village, witnesses of the accident revealed that the victim Osman Gani came in contact with live snapped L.T. line lying on the road side of Ratanpur village while he tried to cross the said road in the early morning on the way of return his home with some jute sticks from the bank of the river.

D. POSSIBLE CAUSE OF THE ACCIDENT : From the above, it appears that the accident occurred due to contact with the snapped L.T. conductor when the victim unknowingly crossing the L.T. conductor lying on the road and received electric shock and electrocuted.

E. CONTRAVENTION OF PROVISIONS OF THE INDIAN ELECTRICITY RULES....

In the said case, it appears that no proper care was taken during construction and maintenance of the L.T. line in issue for which the accident occurred and as such, there occurred contravention of the Rule 29 (1) and 91 (1) of the Indian Electricity Rules, 1956, on part of the owner of the L.T. overhead electric transmission line in issue referred to above.

A copy of the aforesaid letter dated 4.4.2008 and the enquiry report is marked and appended as Appendix-A and B respectively and the same shall be kept as a part of the record.

6. From the aforesaid report, it is clear that the said accident took place due to the negligence on the part of ASEB authorities in maintaining the wire of live electric line.

7. Mr. Das, learned standing counsel for respondent ASEB submits that the Board has issued an Office Memorandum dated 22.12.2008 fixing the scale of compensation for payment in respect of victim (fatal) of electrical accident, who are not under the Board employment. The related table, fixing the scale of compensation for payment, as stated above, is furnished below:

Up to 20 years of age, Rs. 1.00 Lakh (Rupees One Lakh)

Above 20 years age and upto 55 years of age, Rs. 1.50 Lakh (Rupees One Lakh Fifty thousand)

Above 55 years of age, Rs. 1.00 Lakh (Rupees One Lakh)

The aforesaid Memorandum so produced before this Court is marked and appended as Appendix-C and the same shall also be kept as a part of the record.

8. As per the aforesaid scheme of the respondent ASEB, the petitioners would be entitled to Rs. 1.50 Lakhs, as compensation, for the death of their father as the age of the deceased father was about 50 years.

9. The respondent ASEB did not question/challenge the aforesaid enquiry report on the said accident and, thus, the same has remained uncontroverted and accepted. Since the respondent ASEB has fixed the scale of compensation at Rs. 1.50 Lakhs for the death of persons above 20 years and up to 50 years of age and as such, they are bound to implement the same. In view of the above position, in the interest of justice, it is hereby directed that the respondents 1, 2 and 4, shall make necessary arrangement for payment of Rs. 1.50 Lakhs, as compensation, for the death of Osman Ali alias Osman Gani, to the petitioners [children of the deceased], within a period of 3 (three) months from the date of

receipt of a certified copy of this order.

10. The respondents concerned shall deposit the aforesaid amount of Rs. 1.50 lakhs to the office of the Registrar General, Gauhati High Court, Guwahati and the same shall be given to the petitioners after proper/personal verification through their advocate.

11. With the above observations and directions, the petition stands disposed of. There shall be no order as to costs.