

(2012) 01 AP CK 0079

In the Andhra Pradesh High Court

Case No : Writ Petition No : 34856 of 2011

N. Uligappa, rep by Father Sri N. Malingappa

APPELLANT

Vs

A.P State Electricity Board, Andhra Pradesh Central Power
Distribution Corp., Ltd., [APCPDCL] and The Superintending
Engineer, Operation, APCPDCL, Kurnool Zone, Kurnool

RESPONDENT

Date of Decision : 02-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2012 AP 149 : (2012) 2 ALD 342

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

**Advocate : G. Sanyasi Rao, for the Appellant; O. Manohar Reddy, S.C For
APCPDCL, for the Respondent**

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy

1. This Writ Petition is filed for a Mandamus to direct the respondents to pay a sum of Rs. 8 lakhs to the petitioner towards compensation for loss of his left leg and right hand.
2. I have heard Sri G.Sanyasi Rao, learned counsel for the petitioner and perused the record.
3. The petitioner, who is a minor, represented by his father and natural guardian, is unfortunate to have lost his left leg and right hand due to electrocution on 04.12.2010. In this Writ Petition, the petitioner sought for payment of compensation alleging negligence on the part of the respondents in maintaining 33 KV over head lines.
4. In para 5 of the affidavit, filed in support of the Writ Petition, it is averred as under: -

I submit that the Additional Assistant Engineer, Rural, Alur, after knowing the accident, immediately rushed to the accident spot along with Line Inspector/ Halaharvi and inspected the spot. And he immediately, addressed a letter No.AE/R/ALR/F Doc/D.No.39/1, dated 28.07.2011, to Assistant Divisional Engineer, Operation Sub-Division, Alur, narrating the accident and taking further necessary action to tighten the wire. Copy of letter of Additional Assistant Engineer, Alur is enclosed as (Ex.P-3).

5. A perusal of the letter, dated 28.07.2011, referred to in the above reproduced paragraph, does not show that the Additional Assistant Engineer has referred to tightening of the wire as claimed in the affidavit. On the contrary, the said letter shows that a house was newly constructed under 33 KV line and that the petitioner has gone on the terrace of the building and came into contact with the live wire. The Assistant Divisional Engineer, Operation Sub-Division, Aluru in his letter, dated 28.07.2011, addressed to the Divisional Electrical Engineer, Operation Division, APCPDCL, Adoni, has also given the same opinion. He, however, requested to sanction the ex gratia on humanitarian grounds.

6. It is trite that compensation for loss of life or limb is payable on proof of negligence. The material filed by the petitioner does not ipso facto prove negligence. Even though it is the plea of the petitioner that on account of over head wire loosely hanging, he came into contact with the live wire, there is no evidence to substantiate this plea. As noted earlier, letter, dated 28.07.2011, of Additional Assistant Engineer, Alur, does not support the plea of the petitioner.

7. In *Chairman, Grid Corporation of Orissa Ltd (GRIDCO) V. Sukamani Das* (1997) 7 SCC 298 the Supreme Court held that actions of tort and negligence are required to be established initially by the claimants; that the mere fact that the wire of the electric transmission line had snapped and the deceased had come into contact with it and died by itself was not sufficient for awarding compensation; and that the Court was required to examine whether the wire had snapped as a result of any negligence on the supplier, as a result of which the deceased has come into contact with the live wire. The Court further held that the licensee deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties and that such disputed questions of fact could not be decided in exercise of jurisdiction under Article 226 of the Constitution of India.

8. In the absence of any proof of negligence adduced by the petitioner, in the present case, it is not possible for this Court to grant the relief to the petitioner for payment of compensation for the alleged negligence on the part of the respondents.

9. As regards the claim for ex gratia, Sri O.Manohar Reddy, learned Standing Counsel for Andhra Pradesh Central Power Distribution Company Limited, representing the respondents, submitted that the respondents will consider the

petitioner's claim for ex gratia in terms of letter No.ADE/O/ALR/F.Doc/D.No.473, dated 28.07.2011, of the Assistant Divisional Engineer, Operation Sub-Division, Alur addressed to the Divisional Electrical Engineer, Operation Division, APCPDCL, Adoni, within a, period of four weeks from the date of receipt of a copy of this order and communicate the decision to the petitioner.

10. In this view of the matter, while declining to entertain the Writ Petition for grant of compensation, the respondents are directed to consider the petitioner's case for payment of ex gratia within the time indicated above. The petitioner is permitted to avail the common law remedies for claiming compensation.

11. Subject to the above direction, the Writ Petition is dismissed.

12. As a sequel to dismissal of the Writ Petition, W.P.M.P.No.43346 of 2011 filed by the petitioner for interim relief is dismissed as infructuous.