

(2025) 06 GAU CK 0163
In the Gauhati High Court
Case No : WP(C) Of 2735 Of 2021

Nur Nehar And Anr

APPELLANT

Vs

State Of Assam And 5 Ors

RESPONDENT

Date of Decision : 16-06-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 326, 420
Electricity Act, 2003 — Section 53
Code of Civil Procedure, 1908 — Section 80

Citation : (2025) 06 GAU CK 0163

Hon'ble Judges : Sanjay Kumar Medhi, J

Bench : Single Bench

Advocate : A.R. Agarwala, SS Roy, B. Das

Final Decision : Allowed

Judgement

Sanjay Kumar Medhi, J

1. Heard Shri AR Agarwala, learned counsel for the petitioners. Also heard Shri SS Roy, learned State Counsel and Shri B. Das, learned Standing Counsel, APDCL.

2. Considering the subject matter involved and as agreed to by the learned counsel for the parties, this writ petition is taken up for disposal at the admission stage itself.

3. As per the facts projected, the minor daughter of the petitioners had suffered from electrical burn injuries leading to amputation of her right leg. It has been alleged that the accident had taken place because of negligence on the part of APDCL as live electrical wires were on the road side without any safety measures.

4. The learned counsel for the petitioners has submitted that a police case was registered being Krishnai PS Case No. 125/2019 under Sections 420/326/34 of the Indian Penal Code corresponding to GR Case No. 1215/2019. Further, notice under Section 80 of the CPC was also issued to the respondent authorities for payment of compensation which was not done. He further submits that from the

affidavits exchanged, it appears that a report has been furnished by the Dy. Chief Electrical Inspector, Government of Assam on 03.07.2023 which substantiates the claim made by the petitioners.

5. Shri Bhargav Das, learned Standing Counsel, APDCL has fairly submitted that the aspect of negligence was the subject matter of investigation made by the Electrical Inspector and in this case, the Dy. Chief Electrical Inspector, vide the aforesaid report dated 03.07.2023 has come to a finding that the accident had occasioned due to negligence of the APDCL.

6. The learned Standing Counsel has also placed on record the OM dated 07.11.2019 of the APDCL by which the quantum has been fixed on different segments as compensation for various segments due to electrocution. He has also placed on record the AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019 which has been formulated in terms of Section 53 of the Electricity Act, 2003. On the aspect of quantum, he has pointed out that Rs.4(four) lacs is the amount prescribed for permanent total disablement as per the list of injuries which have been mentioned in Schedule-A of the concerned Regulation.

7. Shri Roy, learned State Counsel has submitted that since the report has been furnished by the Dy. Chief Electrical Inspector, appropriate orders may be passed in accordance with law.

8. Shri Agarwala, learned counsel for the petitioners has however submitted that the Hon'ble Supreme Court in the case of State of Himachal Pradesh Vs. Naval Kumar reported in (2017) 3 SCC 115, had granted compensation of Rs.90(ninety) lacs. He has also placed reliance on a judgment of Zothanpuia (Minor) Vs. The Secretary, Power & Electricity Department, Government of Mizoram reported in 2020 (3) GLT 85 wherein an amount of Rs.25 (twenty five) lacs has been granted. Reliance has also been placed on the case of Assam Power Distribution Company Ltd. Vs. District legal Services Authorities reported in (2023) 5 GLT 427 wherein a Coordinate Bench of this Court had directed payment of interest on the stipulated time.

9. The aforesaid contentions have been duly considered. In the instant case, however the Office Memorandum dated 07.11.2019 which was existing at the time of institution of the writ petition is not the subject matter of challenge. The OM lays down a prescribed amount for a different kind of eventualities and in case of such permanent total disablement, the amount prescribed is Rs.4(four) lacs.

10. The case of the Hon'ble Supreme Court pertains to State of Himachal Pradesh and it is not discernible from the judgment regarding existence of any similar OM. Similarly, in the case of Zothanpuia (Minor) (supra) the same pertains to the State of Mizoram where no such OM is applicable whereas the instant case is pertaining to the State of Assam in which the OM dated 07.11.2019 is applicable.

11. Coming to the case of APDCL (supra), this Court has noticed that the said writ petition was preferred by the APDCL against an order passed by the District Legal Services Authority whereby an amount of Rs.5(five) lacs was directed to be paid with 6% interest. This Court has however interfered with the said direction by holding that the amount of compensation entitled would be Rs.4(four) lacs as prescribed by the OM. However, interest @ 12% was granted from the date of the accident.

12. On a perusal of the report of the Dy. Chief Electrical Inspector dated 03.07.2023, it becomes clear that there was no contributory negligence for the child in question in the accident concerned and rather the report clearly states that the 11 K.V. line was not tripped due to absence of circuit breaker and other safety equipments and further the overhead lines were not earthen permanently and efficiently. Therefore, the negligence of the APDCL stands prima facie established which leads to a consequence that the petitioners would be entitled to the compensation.

13. In the opinion of this Court in absence of any challenge to the Office Memorandum dated 07.11.2019, the same would hold the field, as per which, the amount is prescribed as Rs.4(four) lacs. However, as held by this Court in the case of APDCL (supra), simple interest @ 12% is also directed to be granted from the date of the accident.

14. It is accordingly directed that the prescribed compensation amount of Rs.4(four) lacs along with simple interest @ 12% from the date of the accident be paid to the petitioners by the respondents - APDCL. Such payment be made within a period of 2(months) from the date of receipt of certified copy of this order.

15. The writ petition is accordingly allowed to the extent indicated above.

16. No order as to cost.