
(2004) 02 GAU CK 0008
In the Gauhati High Court
Case No : Writ Petition (C) No. 5835 of 1999

Phatik Ch. Talukdar

APPELLANT

Vs

Assam State Electricity Board

RESPONDENT

Date of Decision : 17-02-2004

Acts Referred:

Constitution of India, 1950 — Article 21, 226
Electricity Rules, 1956 — Rule 91

Citation : (2004) 3 GLR 438

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : H.N. Sarma and B.D. Goswarni, for the Appellant; B.D. Das, for the Respondent

Final Decision : Allowed

Judgement

Ranjan Gogoi, J.—The petitioner is the father of one Pranab Kumar Talukdar, who died, in an incident of electrocution which occurred on 17/7/82 in the village Raipur of Barpeta district of the State of Assam. The deceased at the time of his death, was 15 years in age and had completed, his High School Leaving Certificate examination, the results of which were announced latter, showing the deceased to have been passed in 2nd division. Alleging and attributing negligence on the part of the Board for the death of his son, the instant writ petition has been filed invoking the extraordinary jurisdiction of this Court and praying for award of adequate monetary compensation.

2. This Court by order dated 9/4/01, directed the Sr. Electrical Inspector, Govt. of Assam, to make an enquiry with Regard to the incident in question and submit a report. The said enquiry had since been completed and a report of the enquiry dated 22/11/01 has been placed on record.

A perusal of the aforesaid report of the Sr. Electrical Inspector would go to show that the death in question had occurred as the deceased Pranab Kumar Talukdar came into contact with a live LT Conductor which was lying on the National

Highway. The Electrical Inspector in his report, has held that under the provisions of Rule 91 of the Indian Electricity Rule, 1956, it was mandatory on the part of the Board to provide necessary safety devices in a overhead line erected over a street to ensure that in the event the line snaps, the same is rendered electrically harmless. The Electrical Inspector has further held that in the instant case, as the LT Conductor was live even after the snapping of the line, the Board had failed to comply with the provisions of Rule 91 of the Indian Electricity Rules, 1956. The report of the Electrical Inspector, therefore, would clearly go to show negligence on the part of the Board in maintaining the overhead line. The said report would therefore bear ample testimony to the fact that the death in question had occurred on account of negligence of the Board.

3. Perhaps in view of the report of the Electrical Inspector, as noticed above, the endeavour of the learned Standing Counsel for the A.S.E.B., Mr. B.D. Das, has been to persuade the Court to non-suit the petitioner on the ground of the delay in filing the writ petition. Mr. Das has contended, while incident had occurred in the year 1982, the present approach to the Court has been made in the year 1999, and therefore, this Court must construe the claim made to have become stale and on that basis refuse the writ petitioner an adjudication on merits.

4. Though the law of limitation would not strictly apply to writ proceedings it must be accepted that an affected period should invoke the jurisdiction of the writ Court at the earliest opportunity. In the instant case, the writ petitioner has averred in the different paragraphs of the writ petition that right from the year 1982, he had been continuously submitting representation to the authorities of the Board to provide him necessary relief and succour and the Board not having responded to the said requests, the instant writ petitioner has been filed. Copies of the representations filed by the writ petitioner, from time to time, have also been brought on record. While it is correct that the writ petitioner should have approached this Court earlier, yet having regard to the facts and circumstances involved and the nature of the relief claimed, I do not consider that the ends of justice require that the writ petition should be foreclosed on the ground of delay. The several case laws which the learned Standing Counsel tried to rely upon being with regard to claims for promotion or seniority where delay has led to accrual of third party rights, the Court did not consider it necessary to burden the present order by referring to any of the said decisions. No third party rights having accrued for the present case which is likely to be affected by an adjudication of the present case on merits, the Court has considered it proper not to refuse suet adjudication to the writ petitioner.

5. The Office Memorandum dated 17/12/96, issued by the Board, laying down the norms and guidelines for payment of compensation in case of death by electrocution relied upon by learned Standing Counsel, Mr. Das, must be understood, to be the norms which the Board understands to be fair and just. Certainly such norms cannot come in the way of the Court rendering effective justice, as the facts of a case may call for.

6. The negligence of the Board, leading to the death of the son of the petitioner, is an established fact. The question, therefore, that now confronts the Court is the quantum of the compensation that the writ petitioner should be awarded. The death having occurred in the year 1982 and the deceased being a young boy of 15 years at the time of his death having no income of his own and also having regard to the uncertainties and vagaries of life, I am of the considered view that compensation of Rs. 1.00 lakh would be just, fair and adequate. Let the aforesaid sum of Rupees 1.00 lakh be paid by the Assam State Electricity Board of (ASEB) to the petitioner within a period of 45 days from the date of receipt of certified copy of this order.

The Writ petition stands allowed in terms of the directions above.