



GAHC010235002016

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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/1296/2016**

THE ASSAM POWER DISTRIBUTION COMPANY LTD.  
REP. BY THE MANAGING DIRECTOR, BIJULLE BHAWAN, PALTAN BAZAR,  
GHY.-01.

VERSUS

THE DIST. LEGAL SERVICES AUTHORITY and ANR.  
CACHAR AT SILCHAR REP. BY ITS CHAIRMAN, DIST. CACHAR, ASSAM.

2:ANAWARA BEGUM LASKAR

W/O. LT. ANUR UDDIN LASKAR  
VILL. DURGANAGAR PART-VII  
P.O. UDHARBOND  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

3:ASSAM STATE LEGAL SERVICES AUTHORITY  
GUWAHATI  
ASSAM

4:THE SENIOR ELECTRICAL INSPECTOR  
ASSA

For the Petitioner (s) : Mr. K.P. Pathak, Advocate.

For the Respondent (s) : Mr. I. Hussain, Advocate (R-2).



**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (ORAL)**

**Date : 22-08-2023**

The instant writ petition has been filed by the Petitioner which is a Public Limited Company challenging the award dated 8.4.2015 passed by the Respondent No. 1 in the Pre-litigation Case No. 2/2012.

2. The facts involved in the instant case is that the Respondent No.2 had filed a petition before the Permanent LokAdalat, Cachar, Silchar being Case No. PLA No. 2/2012. The translated copy of the said application is enclosed as Annexure-1 to the writ petition. It transpires from the said application that an electric line of the Petitioner Company runs through the front side of the Respondent No. 2's house. The said electric line was not properly maintained for a long time. On 01.06.2009 at around 5 AM when the son of the Petitioner aged about 11 years went under a mango tree to pick up mangoes, he got electrocuted when the electric line fell on the ground. At this the husband of the Petitioner and his brother went to the said place and found that the son of the Respondent No. 2 had already expired due to electric shock. The brother-in-law of the Respondent No. 2 informed about the incident to the Udarbond Police Station as well as the Petitioner Company. It is under such circumstances, the said application was filed seeking a compensation of Rs. 7 lakhs for the death of the son of the Respondent No. 2 from the Central Assam Electricity Distribution Co. Ltd.

3. The Petitioner duly participated in the said proceedings i.e. PLA Case No. 2/2012 by submitting a written statement thereby denying the contents. On 08.04.2015 an award was made whereby the Petitioner was directed to make

payment of compensation to the Respondent No. 2 of an amount of Rs.5 lakhs alongwith 6% interest per annum from the date of the death of the victim jointly and severally within 30 days from the date of receipt of a certified copy of the order by the concerned authority.

4. It is the case of the Petitioner herein that the perusal of the impugned award dated 08.04.2015 would show that it is only the Chairman who had signed the said order and as such the said order so passed is without any authority and jurisdiction. The said order has been put to challenge primarily on the following three grounds :-

(i) In terms with Section 22B of the Legal Services Authority Act, 1987 (in short 'the Act of 1987') the Permanent Lok Adalat shall consist of a person having a judicial background who is or has been a District Judge or Additional District Judge or has held judicial office higher in rank than that of a District Judge and two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or as the case may be, the State authority.

(ii) The dispute in issue nowhere relates to 'public utility service' and there is no relation of service provider and service recipient/consumer and as such it was outside the scope of the Permanent Lok Adalat.

(iii) There were no finding or any evidence on record as regards proof of incident, negligence on the part of the APDCL, age of the victim, basis for determination of compensation amount etc.

(iv) It was also alleged that the Permanent Lok Adalat vide the impugned

award in absence of any evidence granted compensation. It was also alleged that the report of the Chief Electrical Inspector as per Section 161 of the Electricity Act, 2003 is essential in the matter of electrical accident and the impugned award dated 8.4.2015 was passed without calling for the report from the Chief Electrical Inspector.

5. This Court vide an order dated 29.2.2016 issued notice and the impugned order dated 08.04.2015 passed in Case No. PLA 2/2012 was stayed subject to deposit of Rs.2,50,000/-. Subsequent thereto, the amount of Rs.2,50,000/- was deposited with the Registrar General of this Court on 21.4.2016. The records shows that vide an order dated 21.7.2017, the Registry was directed to release the amount of Rs.2,50,000/- subject to verification of identity.

6. The record further shows that on 23.12.2016, an affidavit-in-opposition was filed by the Respondent No. 2. In the said affidavit-in-opposition, it was mentioned that the Petitioner Company was duly informed about the incident and the officials of the Petitioner Company verbally assured to compensate the Respondent No. 2 for the death of her son due to electrocution. It was further mentioned that the husband of the Respondent No. 2, Late Anur Uddin Laskar had sent a pleader's notice dated 15.6.2009 to the Senior Electrical Inspector, Licensing Board, Government of Assam, Silchar as regards the incident. Thereupon the Senior Electrical Inspector vide report dated 29.6.2009 informed the husband of the Petitioner about the matter. In the said report, it was also stated that the Sub-Divisional Engineer, Udharbond, Electrical Sub-Division submitted a detailed accident report dated 2.6.2009 under the electricity Act and the Rules and sometime was sought for providing more information from the Sub-Divisional Engineer, Udharbond. The husband of the Respondent No. 2

was also informed by the Senior Electrical Inspector that they are not liable for payment of any compensation but would do the proper enquiry etc. It was further informed that the matter was decided as per Rule consisting of members and the judgment was delivered by the learned Chairman of the Permanent Lok Adalat. It was further mentioned that the claimant i.e. the Respondent No. 2 adduced evidence but the Petitioner did not adduce any evidence.

7. The records further reveals that the Respondent No. 3 i.e the Assam State Legal Services Authority had also filed an affidavit-in-opposition. It was mentioned in the said affidavit-in-opposition that a perusal of the impugned award, it would be apparent that the Respondent No. 1 had taken into account the evidence adduced by the Respondent No. 2. It was further mentioned that the Petitioner was given sufficient chance to cross examine the PWs but was absent on all dates fixed for cross-examination of the PWs. Further to that, it was also mentioned that there was no plea taken in the written statement filed by the Petitioner Company that in the matter of electrical accident the report of the Chief Electrical Inspector was mandatory in terms with Section 161 of the Electricity Act, 2003 in passing an award.

8. This Court finds it relevant to take note of another very relevant aspect of the matter i.e. the order dated 8.9.2022 whereby the Senior Electrical Inspector, Assam was impleaded as the Respondent No. 4. This Court further finds it relevant to take note of Paragraph 8 of the said order which is reproduced hereinbelow :-

*“ 8. In the instant case, as already noticed, there does not appear to be any adjudication by the permanent Lok-Adalat as to whether in the facts, circumstances and under the relevant law, there was any negligence by the*

*petitioner APDCL the death of the son of the respondent No. 2 by an electrocution. By invoking our extra ordinary jurisdiction under Article 226 of the Constitution of India, we are of the view that instead of remanding the matter back to the permanent Lok-Adalat for a fresh decision and that too after a period of almost 13 years when the occurrence had taken place, it will be more equitable for this Court to take up the claim of the respondent No. 2 for compensation for the death of her son electrocution as a writ petition itself and decide on the question as to whether in the facts, circumstance and law, any compensation is to be paid. The procedure followed in respect of such proceeding under Article 226 is that a report is called for from the Senior Electrical Inspector of the Government of Assam as to in what circumstance the electrocution had taken place and whether there was any negligence on the part of the APDCL authorities."*

9. The records further reveals that on 17.05.2023 the Chief Electrical Inspector-cum-Adviser, Assam (I/C) had filed an affidavit-in-opposition. In the said affidavit-in-opposition, it was mentioned that an enquiry was conducted by the Deputy Chief Electrical Inspector, Government of Assam regarding the electrical accident which occurred on 01.06.2009 wherein the son of the Respondent No. 2 lost his life and after completion of the enquiry, an Electrical Accident Enquiry Report dated 06.10.2022 was submitted by the Deputy Chief Electrical Inspector, Government of Assam. To the said affidavit-in-opposition, the electrical accident report was enclosed as Annexure-A. In the said electrical accident report, it was mentioned that the cause leading to the accident was due to snapping of live L.T. bare conductor lying on the village road and the victim (the Respondent No.2's son) somehow came into contact with the live LT bare conductor, as a result of which the victim (the Respondent No.2's son) received fatal electric shock leading to his unfortunate death. It was further mentioned in the said enquiry report that there was non-compliance of

Regulation 12 (1) of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 on part of the owner of the overhead line, i.e. the petitioner company.

10. I have heard the learned counsels for the parties and perused the materials on record.

11. The records further shows that vide an order dated 20.6.2023 this Court had called for the records of Case No. PLA 2/2012 from the Permanent Lok Adalat, District Legal Service Authority, Cachar, Silchar. From the records and more particularly the order sheet of the Permanent Lok Adalat, it reveals that all the orders have been signed by the Chairman of the Permanent Lok Adalat right from the initiation till the impugned order dated 08.04.2015. There is no signature of any other member(s). The records further show that the Respondent No. 2 as the claimant had submitted the evidence as well as the various documents including the postmortem report which shows that the death of the victim was caused due to ventricular fibrillation following electrocution during life. It also shows that the husband of the Petitioner was also issued a Communication dated 29.6.2009 by the Senior Electrical Officer, Government of Assam, the reference of which have already been detailed out in the affidavit filed by the Respondent No. 2.

12. Upon hearing the learned counsels for the parties and from a perusal of the materials on record including the LCR of Case No. PLA 2/2012, three points for determination arises for consideration :—

- (i) Whether the award dated 08.04.2015 can be said to be an order passed by the Permanent Lok Adalat that too when only the

Chairman of the Permanent Lok Adalat had put his signature in the impugned award and not the other two technical members ?

(ii) Whether taking into account the facts involved any interference is required to be made to the impugned award dated 08.04.2015 ?

(iii) Whether the Respondent No. 2 would be entitled to any compensation on account of death of her son?

13. Let this Court first take into account the first point for determination. This Court have duly taken note of Section 22B of the Legal Services Authority Act, 1987 which stipulates about the establishment of the Permanent Lok Adalats. Sub-section (2) of Section 22B clearly stipulates that every Lok Adalat established for an area notified under Sub-section (1) shall consist of a person having a judicial background who is or had been a District Judge or Additional District Judge or had held judicial office higher in rank than that of a District Judge and two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or as the case may be, the State authority. Therefore, the quorum of a Permanent Lok Adalat has to be one judicial member and two technical members experienced in public utility service. If that be so, every award so passed by the Permanent Lok Adalat under Section 22E of the Act of 1987 has to be signed by a majority of the persons constituting the Permanent Lok Adalat, if not all the members. This is a mandate in terms with Section 22E (3) of the Act of 1987. Now coming back to the records of the instant case and more particularly the records of Case No. PLA 2/2012 would show that other than the Chairman of the Permanent Lok



Adalat no other member had put any signature in the order sheet. Under such circumstances, the impugned award so passed on 08.04.2015 in the opinion of this Court cannot be said to be an award passed by the Permanent Lok Adalat.

14. The next point of determination therefore arises as to what is the consequence whether the order cannot be regarded as an award passed by the Permanent Lok Adalat. The said impugned award dated 08.04.2015 in the opinion of this Court is a nullity in the eyes of law inasmuch as the impugned award passed comes within the purview of coram non-judice.

15. The third point for determination is as to whether the Respondent No. 2 now should be again relegated back to the Permanent Lok Adalat after having suffered the unfortunate death of her son and the long ordeal of the proceedings before the Lok Adalat and before this Court. It is the opinion of this Court that to relegate the Respondent No. 2 back at this stage would not only be unfair but would also result in eroding the belief in the judicial process. The said opinion is based on the fact that it was not on account of the fault of the Respondent No. 2 which had resulted in the impugned award dated 08.04.2015 being passed without jurisdiction but it was the fault of the Chairman of the Permanent Lok Adalat as well as the other two technical members with adequate experience in public utility service who did not pass the award by way of a majority. Under such circumstances, this Court deems it proper and appropriate to decide the issue as to whether the Respondent No. 2's grievances can be redressed under Article 226 of the Constitution.

16. This Court finds it relevant to take note of Section 57 of the Electricity Act, 2003 (in short 'the Act of 2003') which is quoted hereinunder :

***“57. Standards of performance of licensee.- (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.***

*(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:*

*Pr that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.*

*(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.*

17. From a perusal of Section 57 of the Electricity Act, 2003, it transpires that in terms with Subsection (2) of Section 57 of the Act of 2003, if a licensee fails to meet the standards specified in Sub-section (1) without prejudice to any penalty which may be imposed or prosecution be initiated, the licensee shall be liable to pay compensation to the person affected as may be determined by the appropriate Commission. The proviso to Sub-section (2) of Section 57 of the Act of 2003 stipulates that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

18. This Court further finds it relevant to take note of Sub-Section (3) of Section 57 of the Act of 2003 that the compensation determined under Sub-section (2) shall be paid by the concerned licensee within 90 days of such determination. This Court further finds it relevant to take note of that the Assam Electricity Regulatory Commission had issued a Notification dated 5<sup>th</sup> of August, 2019 in exercise of the powers conferred under Section 181(1) read with Section 57(2) and Section 57(3) of the Act of 2003 in the name and style of

AERC (Compensation to Victims of Electrical Accident) Regulations, 2019 (for short referred to as 'the Regulations of 2019'). Regulation 5 of the said Regulations of 2019 stipulates liability for compensation. The same is reproduced hereinunder :-

*“5. Notwithstanding anything contained in any other law in force, the licensee/generating company including CPP shall be liable to pay compensation as specified in these Regulations to the person affected or his dependents for loss of animal or human lives or injury to human beings and animals in consequence of an electrical accident, provided the electrical accident is attributable to the fault/negligence of the licensee/generating company/CPP.”*

*Provided that if the loss of human life is due to suicide or homicide or the injury to a human being is due to an attempt to commit suicide or homicide, the licensee/generating company/CPP shall not be liable to pay any compensation for the same under these Regulations.”*

19. Regulation 6(1) of the Regulation of 2019 stipulates the quantum of compensation for loss of human life. The same is also reproduced hereinunder :-

*“6. Quantum of compensation: - The quantum of compensation payable for loss of life/injury to human or animal is given at Schedule B.*

*(1) The compensation payable for loss of human life as a result of an electrical accident shall be Rupees 4.00 lakhs per person.”*

20. From a conjoint reading of Regulation 5 and Regulation 6(1), it transpires that the dependents of a person who dies on account of an electrical accident

would be paid compensation for loss of human life provided the electrical accident is attributable to the fault/negligence of the licensee/generating company/Captive Power Plants (CPP). The proviso to Regulation 5 of the Regulation of 2019 stipulates that if the loss of human life is due to suicide or homicide or the injury to a human being is due to an attempt to commit suicide or homicide, the licensee/generating company/CPP shall not be liable to pay any compensation for the same under the Regulations. Further to that, Regulation 6 of the Regulations of 2019 stipulates that the quantum of compensation payable for loss of life/injury to human or animal is mentioned in Schedule B.

21. Taking into account that in the instant case, the accident led to the unfortunate death of the son of the Respondent No. 2, the quantum of compensation in terms with Schedule B payable for loss of human life as a result of an electrical accident would be Rs. 4.00 lakhs per person.

22. This Court further finds it relevant to mention that in terms with Regulation 18 of the Regulations of 2019, the compensation is required to be paid to the person entitled to the same within 30 days from the date of the order to be passed in terms with the said Regulations. Regulation 20 stipulates that the quantum of compensation shall be paid within 120 days from the date of occurrence of the electrical accident and if such payment is delayed for any reason beyond 120 days, the compensation shall be paid with additional interest per annum on the amount from the due date of payment, meaning thereby that interest @ 12% per annum shall accrue after 120 days from the date of the accident.

23. In the backdrop of the above, taking into account the Electrical Accident

Report enclosed as Annexure-A to the affidavit-in-opposition filed by the Respondent No. 4, it transpires that the date and time of the accident was on 01.06.2009 at 5 AM and the cause leading to the accident was due to snapping of live L.T. bare conductor lying on the village road and the Respondent No. 2's son came into contact with the live L.T. bare conductor for which the son of the Respondent No.2 received fatal electrical shock leading to his unfortunate death. It was also mentioned in the said Electrical Accident Report that the accident occurred due to non-compliance of Regulation 12(1) of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 on part of the petitioner company. Under such circumstances, taking into account the provisions of Regulations 5 and 6 and the Schedule B to the said Regulations of 2019, it is the opinion of this Court that the Respondent No. 2 is entitled to a compensation of Rs. 4 lakhs on account of the death of her son. This Court further taking into account Regulation 20 whereby the compensation is liable to be paid within 120 days from the date of occurrence of the electrical accident and the same having not been paid, it is the opinion of this Court that the said amount would carry interest @ 12% on the expiry of 120 days from the date of the accident i.e. w.e.f. 01.10.2009 till the entire amount stands disbursed.

24. Accordingly, this Court holds that along with the amount of Rs. 4 lakhs, the Petitioner Company would also be liable to pay interest @ 12 % per annum from 01.10.2009. As it appears from the records that an amount of Rs. 2,50,000/- had already been paid before the Registry of this Court which the Respondent No.2 received, the interest @12% has to be calculated in the following manner i.e.

(i) Interest on Rs.4,00,000/- w.e.f. 01.10.2009 to 06.08.2017 – Rs.3,76,898.63p.

(ii) Interest on Rs.1,50,000/- w.e.f. 07.08.2017 till date i.e. 24.08.2023 – Rs.1,08,887.67p.

25. It is also relevant to mention that the amount of Rs.1,50,000/- which is the Principal still remains outstanding. Therefore, as on the date of the instant judgment, the Petitioner company would be liable to pay an amount of Rs.3,76,898.63p + Rs.1,08,887.67p + Rs.1,50,000.00p = Rs.6,35,786.30p.

26. This Court directs the Petitioner Company to pay the said amount of Rs.6,35,786.30p within 45 days from the date of receipt of the certified copy of the instant judgment. It is made clear that if the amount is not paid as directed, it is observed that in addition to the other remedies available for violation of the orders passed by this Court, the Respondent No.2 would be entitled to interest @12% on Rs.6,35,786.30p till the final disbursement of the amount to the Respondent No.2.

27. The Respondent No.2 is directed to submit a certified copy of the instant judgment to the Managing Director of the Petitioner Company along with the bank details of the Respondent No.2.

28. With above observations and directions, the instant petition stands disposed of.

29. Before concluding, this Court finds it worthy to note its word of appreciation to Mr. I. Hussain, the learned counsel for the Legal Services



Authority for his valuable assistance to this Court.

30. The Registry is directed to forthwith return the records.

**JUDGE**

**Comparing Assistant**