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Court : Karnataka

Decided On : Sep-28-2006

Reported in : 2007(1)KLJ321; 2006(4)KCCR2670; 2006(6)AIRKarR536

Judge : N.K. Patil, J.

Appeal No. : Writ Petition No. 49553 of 2004

Appellant : Eshappa

Respondent : The Chief Engineer (Electricity), Gescom, Bellary Zone and anr.

Advocate for Def. : N.K. Gupta, Adv. for Respondents-1 and 2

Advocate for Pet/Ap. : Laxman T. Mantagani and ;N.M. Handral, Advs.

Judgement :

ORDER

N.K. Patil, J.

1. The petitioner in this petition has sought for a direction, directing the respondents to enhance the amount of compensation from Rs. 1 lakh to Rs. 8 lakhs as mentioned in the representation dated 5th November, 2004 vide Annexure-B.

2. The grievance of the petitioner in the instant writ petition is that, the petitioner is a resident of Varatnal Village, Koppal Taluk and District and he is an agricultural coolie. On the fateful day of 30th July, 2003, the wife of the petitioner, namely Smt. Hanumawa went to the land of one Smt. Shivamma Bellur for the agricultural coolie work. Unfortunately, due to negligence on the part of the respondent-jurisdictional local employee, an electric wire cut off and the same fell on the guy wire of an electric pole. The deceased Hanumawa without having any knowledge regarding the falling of the said wire on the guy wire of an electric pole, came in contact with the said guy wire and thereby electrocuted and died on the spot. On account of the said demise of the wife of petitioner, who was aged about 30 years, on the spot, leaving behind the petitioner, two sons and one daughter who are aged about 6 years, 4 years and 2 years respectively, the entire family has received shock. It is the case of petitioner that, the entire family was depending upon the coolie work done by the petitioner and his deceased wife, Hanumawa. Due to the said unexpected incident, as referred above, the minor children have become orphans and nobody is thereto look after the children except the petitioner. Petitioner is also not in a position to manage the day-to-day work and life of the children as he has to attend the coolie work to feed himself and the minor children. Further, it is the case of petitioner that, as per the post-mortem conducted by the Competent Authority, the medical expert has opined that, the death of the deceased late Hanumawa was due to electric shock and negligence on the part of the respondents-authorities. This fact has been immediately brought to the notice of the Chief Electrical Engineer, Bellary Zone, Bellary and the concerned officials who are in charge of the same. The jurisdictional authority, after verification of the records, has granted a meagre compensation of Rs. 1 lakh for the death of Smt. Hanumawa. Since the petitioner was a coolie, it was very difficult for him to feed himself and three minor children all alone with the meagre compensation received from the Competent Authority. Therefore, being aggrieved by the said meagre amount awarded by the Competent Authority, on the ground that, the same is inadequate, petitioner was constrained to give a detailed representation vide Annexure-B and the same was received by the respondents on 5th November, 2004. Instead of considering the same and taking into consideration the totality of the case on hand and the case made out by the

petitioner, the second respondent hearing has issued the communication dated 27th November, 2004 stating that, there is no provision to grant of compensation at more than one lakh. Having regard to this background, petitioner has presented the instant writ petition.

3. I have heard learned Counsel appearing for petitioner and learned Standing Counsel appearing for respondents 1 and 2.

4. After careful evaluation of the material available on record, it emerges that, the petitioner has submitted a detailed application-cum-representation dated 5th November, 2004 vide Annexure-B addressed to the Chief Executive Engineer, Office of the Chief Engineer, Bellary Division, Bellary and the same has been duly acknowledged by the said authority vide Annexure-C. The respondent being the Competent Authority, exercising its power under the statute, ought to have considered the matter taking into consideration the facts and circumstances of the petitioner's case or at least could have forwarded the representation given by the petitioner to the higher authorities for consideration. The amount awarded is inadequate and the petitioner is entitled for seeking enhancement having regard to the facts and circumstances of the case and negligence on the part of the respondent in not monitoring and following up the electric work and due to the negligence on the part of the jurisdiction local officers, who are in charge, petitioner has lost his wife, who has left behind three minor children. This fact ought to have been apprised by the first respondent before the higher authorities and submitted a report having regard to the direction issued by this Court in similar matters for taking appropriate decision taking into consideration the direction issued by this Court in several matters, which have been settled amicably between the parties before Lok Adalath. The first respondent could have authorised this matter by way of submitting the report to the higher authorities stating that, it is a fit case for enhancement of compensation having regard to the welfare of three minor children and the day-to-day expenses and the basic necessities of life, viz., food, clothing and shelter etc.

5. Therefore, having regard to the facts and circumstances of the case, as stated above, the first respondent is directed to look into the matter and consider the

representation given by petitioner and apprise the matter before the higher authorities for award of additional compensation taking into consideration the totality of the case on hand and also bearing in mind that several matters have been settled before the Lok Adalath granting higher compensation. If the same ratio is applied, then the petitioner is also entitled for enhancement of compensation and the said decision should be taken within eight weeks from the date of receipt of a copy of this order, by the Competent Authority.

6. With these observations, the writ petition filed by petitioner stands disposed of.

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