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Court : Andhra Pradesh

Decided On : Dec-22-2011

Judge : C.V. Nagarjuna Reddy, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Section 174; Constitution of India - Article 226.

Appeal No. : WRIT PETITION No.33771 of 2011

Appellant : Hanuman Das and anr

Respondent : A.P. Central Power Distribution Co., Ltd., Mahabubnagar District

Advocate for Pet/Ap. : Mohd. Yousuf, Adv.

Judgement :

C.V. NAGARJUNA REDDY, J.

ORDER

1. This Writ Petition is filed for a Mandamus to declare the action of the respondent in not paying compensation of Rs.5,00,000/- for the death of petitioners' son Abhijit due to electrocution on account of its negligence, as illegal and arbitrary.

2. The petitioners, who are the unfortunate parents of Abhijit, who died due to electrocution on 10.12.2010 in a playground nearby his school, have lodged a complaint before the Makthal Police Station, Mahaboobnagar District, which in turn registered a criminal case as Crime No.164 of 2010 under Section 174 Cr.P.C. The petitioners made representation, dated 01.02.2011, to the respondent for payment of compensation of Rs.5,00,000/-.

3. The learned counsel for the petitioner submitted that as the boy died on account of the negligence in maintaining transformer wires, which fell on the earth causing his death, the respondent is liable to pay compensation. The learned counsel placed reliance on a Division Bench judgment of this Court in P. Ramudu vs. Superintendent Engineer, APSEB1 in support of his submission.

4. I have carefully considered the submissions of the learned counsel for the petitioner and perused the record.

5. In the first information report, it is stated that the boy, who was studying third class, went along with his friends to one school situated in Marutinagar locality and that while he was going alone in street by playing with cycle chain, the chain accidentally came into contact with the hanging transformer wire as a result of which the boy has received electric shock and died due to electrocution.

6. In my opinion, mere death due to electrocution would not fasten liability on the respondent. If electrocution has taken place on account of negligence of the respondent, it is liable to pay compensation for the death or bodily injury. In the instant case, except the allegation contained in the FIR, no material, disclosing negligence of the respondent, is placed by the petitioners. Unless, the competent Court in a properly instituted proceeding renders a finding on the negligence of the respondent, the petitioners are not entitled to claim compensation from the respondent. In a Writ Petition filed under Article 226 of the Constitution of India, it is not possible for this Court to adjudicate on the allegation of negligence.

7. Indeed, in Grid Corporation of Orissa Ltd., vs. Timudu Oram2 the Supreme Court held that unless there is incontrovertible material showing the negligence of the electricity supplier, no writ for award of compensation can be entertained. The

Division Bench in P. Ramudu (1 supra) while reviewing the case law held that the report submitted by the Divisional Engineer, Electrical Operation, Wanaparthy, clearly discloses the negligence on the part of the officials of the electricity board, who failed to remove the fallen live electrical line for a period of 8 days leading to death of two buffaloes and one person. In the face of the said material, the Division Bench has chosen to follow the judgment of the Supreme Court in Madhya Pradesh Electricity Board vs. Shail Kumari3, wherein it was held that when sufficient material is available showing the negligence, the electricity supplier can be directed to pay compensation even in a writ proceeding, and awarded a tentative compensation of Rs.82,000/- with liberty to the claimants to file a regular civil suit for determination of the actual quantum of compensation.

8. As noted above, in the instant case, the petitioners failed to file any material to prove the negligence of the respondent. Therefore, the Division Bench judgment of this Court, referred to above, is of no avail to them.

9. At the hearing, when this Court has asked Sri O. Manohar Reddy, learned Standing counsel, as to whether any ex gratia is paid to the petitioners, he submitted that ex gratia is payable depending upon the cause of the death and that the respondent will consider the petitioners' claim for payment and take a decision. This submission of the learned Standing counsel is placed on record and the respondent is directed to consider award of ex gratia to the petitioners in terms of the extant regulations/circulars, within a period of one month from the date of receipt of this order and communicate the decision to the petitioners.

10. Subject to the above direction and the liberty to the petitioners to approach the competent Court/Forum for claiming compensation, the Writ Petition is disposed of.

11. As a sequel, WPMP.No.41995 of 2011 is disposed of as infructuous.

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