

Saladi Veera Veni and Others Vs Andhra Pradesh Eastern Power Distribution Corporation Limited and Others

Court: Andhra Pradesh High Court

Date of Decision: July 29, 2010

Acts Referred: Constitution of India, 1950 " Article 226

Citation: (2010) 5 ALD 575

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: Mangena Sree Rama Rao, for Nimmagadda Satyanarayana, for the Appellant; Krupachand Gogineni, for Jyothi Eswar Gogineni, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy, J.

This Writ Petition is filed for a Mandamus to declare the action of the respondents in not paying compensation

of Rs. 10.00 lakhs to the petitioners for the death of the husband of petitioner No. 1 due to electrocution, as illegal and arbitrary.

2. I have heard Sri Mangena Sree Rama Rao, learned Counsel representing Sri Nimmagadda Satyanarayana, learned Counsel for the petitioners,

and Sri Krupachand Gogineni, learned Counsel representing Smt. Jyothi Eswar Gogineni, learned Standing Counsel for the respondents.

3. Petitioner No. 1 is the daughter-in-law of petitioner No. 2 and mother of petitioners 3 and 4. Her husband-Sri Rambabu came into contact with

a live wire on 23-3-2005, while he was on his fields, and died instantaneously due to electrocution. The present Writ Petition is filed seeking

compensation for his death.

4. In the counter-affidavit, the respondents have denied their liability for payment of compensation to the petitioners. It is stated that when the 11

KV Conductor was snapped and was safely hanging on the branches of the trees, the petitioner has attempted to remove the said conductor and,

in that process, he got electrocuted instantaneously.

5. At the hearing, the learned Counsel for the petitioner placed reliance on the judgments of the Supreme Court in Madhya Pradesh Electricity

Board Vs. Shail Kumari and Others, and H.S.E.B. and Ors. v. Ram Nath and Ors., (2004) 5 SCC 793 and submitted that in view of the law

declared by the Supreme Court, this Writ Petition, filed for payment of compensation, is maintainable.

6. The learned Standing Counsel for the respondents, while raising an objection as to the maintainability of the Writ Petition, placed reliance on the

judgment of the Supreme Court in SDO, S.D.O. Grid Corporation of Orissa Ltd. and Others Vs. Timudu Oram,

7. In M.P. Electricity Board (1 supra), a person has died due to electrocution. When the suit filed by the dependants of the deceased was

dismissed by the trial Court, the High Court awarded compensation. The judgment of the High Court was challenged in a Civil Appeal before the

Supreme Court. Thus, the facts in the said case have no bearing on the issue relating to the maintainability of the present Writ Petition.

8. In H.S.E.B. and Ors. (2 supra), the Supreme Court held that where there is no dispute regarding the cause of death, a Writ Petition can be

maintained for payment of compensation.

9. In SDO, Grid Corporation of Orissa Ltd. (3 supra), cited by the learned Standing Counsel for the respondents, the Supreme Court, placed

reliance on its judgment in Chairman, Grid Corporation, of Orissa Ltd. (GRIDCO) v. Sukamani Das (1997) 7 SCC 298, wherein it was held that

actions of tort and negligence were required to be established initially by the claimants; that the mere fact that the wire of electric transmission line

had snapped and the deceased had come into contact with it and died by itself was not sufficient for awarding compensation; and that the Court

was required to examine whether the wire had snapped as a result of any negligence on the part of the deceased, as a result of which the deceased

had come in contact with the wire. The Court further held that the licensee deserved an opportunity to prove that proper care and precautions

were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorized

intervention of third parties and that such disputed questions of fact could not be decided in exercise of jurisdiction under Article 226 of the

Constitution of India. Following the said judgment, the Supreme Court has set aside the judgment of the High Court of Orissa, which has

entertained the Writ Petition and granted compensation to the dependants of the victim.

10. In the present case, the respondents have denied the allegation of the petitioners that the deceased has died on account of their negligence.

They have taken a specific plea that, while the live wire was hanging safely over the branches of the trees, the deceased tried to remove the same

and in the process got electrocuted. As held in Chairman, Grid Corporation, of Orissa Ltd. (GRIDCO) (4 supra), the respondents are entitled to

an opportunity to lead evidence to substantiate their defense. Therefore, it is not appropriate for this Court to render findings on these disputes

aspects while exercising jurisdiction under Article 226 of the Constitution of India. As held by the Supreme Court, the only appropriate remedy for

the petitioners is to file a civil suit for recovery of compensation.

11. The learned Counsel for the petitioners submitted that even ex gratia has not been paid to them by the respondents. The learned Standing

Counsel for the respondents has stated that he has no instructions in this regard.

12. It is not in dispute that under the Scheme of the respondent-Corporation, irrespective of whether the death has occurred on account of

negligence of the respondents or not, the dependants of the victim are entitled for ex gratia. If the respondents have not paid the ex gratia, they are

directed to pay the same as per the quantum, which was prescribed at the time of death of the deceased, within a period of four weeks from the

date of receipt of a copy of this order. Receipt of the ex gratia amount shall be without prejudice to the right of the petitioners to claim

compensation before the civil Court.

13. Subject to the above direction, the Writ Petition is dismissed.