

(2010) 07 AP CK 0020

Andhra Pradesh High Court

Case No: Writ Petition No. 511 of 2006

Saladi Veera Veni and Others

APPELLANT

Vs

Andhra Pradesh Eastern Power
Distribution Corporation Limited
and Others

RESPONDENT

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.