



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5875 of 2008

An application under Articles 226 and 227 of the Constitution of India.

Smt. Umamani Nayak & Ors.

Petitioners

Mr. Bijay Kumar Mohanty, Advocate

-versus-

CEO, TPNODL, Balasore & Ors

Opp. Parties

Mr. L.K. Moharana, Advocate for TPNODL

Mr. P.K. Mohanty, Senior Advocate along with

Mr. P. Mohanty, Advocate

CORAM:

THE HON'BLE MR. JUSTICE A.K. MOHAPATRA

Date of hearing: 09.04. 2025 | Date of Judgment : 28.07.2025

A.K. Mohapatra, J. :

1. The Petitioners who are the wife and three sons of the deceased Sanatan Nayak, have filed the present writ petition with a prayer before this Court to order the Opposite Parties- Electricity Distribution Company, to pay the Petitioners compensation of Rs. 2,00,000/- with 12 % interest per annum. It is the plea of the Petitioners that, due to the negligence of the Opposite Parties in properly maintaining the electric wires, deceased Sanatan Nayak, came in contact with a snapped live wire lying on the road, which led to his death due to



electrocution. As the deceased was the sole earning member of the family, his death has not only caused emotional pain and agony to the Petitioners but also grave financial hardship. Therefore, the Petitioners have prayed this Court to grant them monetary compensation as a means of respite to their financial hardship as no quantum of monetary relief can ever compensate the untimely loss of life of a family member.

FACTUAL MATRIX

2. The brief factual background adverted in the writ petition is that, on 06.07.2007 at around 05:30 PM, when the deceased Sanatan Nayak was going to the market; he unknowingly came in contact with puddle of water which was charged with electricity because a live L.T. line wire had snapped and had fallen into the puddle of water on the road. As a result, the deceased got electrocuted and sustained serious injuries. He was rescued by the villagers and was admitted in the District Headquarter Hospital, Balasore. However, he succumbed to his injuries on the same evening.
3. Later on, post mortem and inquest was conducted on 07.07.2007. Subsequently, Khantapada UDPS Case No. 24/2007 was registered to this effect by lodging FIR under Annexure- 1 to the writ petition. After completion of investigation, the A.S.I. Khantapada submitted the 'Final Report of Unnatural or Sudden Death Sent to Magistrate under Section- 174 of Cr.P.C.' under Annexure- 4 to the writ petition, with the finding that the death of the deceased



Sanatan Nayak was caused due to electrocution as a result of snapping of live electric L.T. lines.

4. The Petitioners had approached the Opposite Parties- Distribution Company for grant of monetary compensation for causing death of the deceased by their negligence, however, the Opposite Parties- Distribution Company have not taken any step in this regard. Being aggrieved by the inaction of the Opposite Parties- Distribution Company, the Petitioners has filed the present writ petition with a prayer before this Court to order the Opposite Parties- Distribution Company to pay compensation of Rs. 2,00,000/- with 12 % interest per annum for causing death of the deceased due to their negligence.

5. It is pertinent to note here that, the writ petition was originally filed against North Eastern Electricity Supply Company of Odisha (*hereinafter* “NESCO”) as the Opposite Parties, which was the authorized company responsible for distribution of electricity in Balasore district, at the time of death of the deceased. However, subsequently the distribution of electricity in the Balasore District was taken over by Tata Power Northern Odisha Distribution Limited (*hereinafter* “TPNODL”). Therefore, by order of this court in I.A. No. 13555 of 2023 dated 06.08.2024, amendment to the cause title was allowed, by impleading TPNODL as the Opposite Parties in place of NESCO.

SUBMISSION FOR PETITIONERS

6. Mr. Bijay Kumar Mohanty, learned counsel appearing on behalf of the Petitioners at the outset contended that, the death of Sanatan Nayak was caused



due to negligence of the Opposite Parties as because the Opposite Parties have failed to discharge their duty of properly maintaining the L.T. electric wires in Sergarh village, Balasore. He also submitted that the L.T. line wire in the village snapped and fell on the road's pot water and charged the water. When Sanatan Nayak was going to the market on 06.07.2007 at around 05:30 PM, he unknowingly stepped on the charged wire as he was unable to see the snapped wire lying on the road due to darkness. As a result, he got electrocuted and was admitted in the District Headquarter Hospital, Balasore. He eventually succumbed to his injuries in the same evening.

7. Learned Counsel for the Petitioners thereafter submitted that, Khantapada UDPS Case No. 24/2007 was registered by lodging FIR under Annexure- 1 to the writ petition. Subsequently, post mortem and inquest proceedings was also carried out. He appraised the Court that the Inquest Report under Annexure- 2 to the writ petition states the cause of death to be 'due to electric shock' and the Post Mortem Report under Annexure- 3 to the writ petition states that the definite cause of death could not be ascertained. However, it was added in the report that the death might be due to hemorrhage due to injury of brain and lacerated wound of face. Thereafter, he drew the attention of the court to the "Final Report of a case of Unnatural and Sudden Death Sent to Magistrate under Section 174 of Cr.P.C." submitted by the ASI Khantapada P.S. under Annexure- 4 to the writ petition and stated that the ASI in the report declares that the cause of death of deceased is due to Electric Shock.



8. Further referring to the aforesaid report, learned counsel for the Petitioners stated that, the ASI has reflected in the final report that upon query being made by him about the injuries found on the body of the deceased, the Medical Officer who conducted the Post Mortem over the dead body of the deceased opined that the *“injury can be possible due to electric shock and also cause death of a person.”* Relying on finding of the Inquest Report under Annexure- 2 to the writ petition; Post Mortem report under Annexure- 3 to the writ petition and the Final Report under Annexure-4 to the writ petition; the learned counsel for the Petitioners submitted that there is no doubt that the death of Sanatan Nayak was indeed caused by electrocution as the deceased accidentally came in contact with live snapped electric wire lying on the road and which was not visible to the naked eye.

9. Learned Counsel for the Petitioners further contended that, the electric L.T. lines were drawn to the Sergarh village quite long time ago. As they were not maintained properly by the Opposite Parties- Distribution Company, the electric wires were not strong enough to withstand the pressure of even mild wind. He further stated that, despite of several complaints and requests by the residents of Sergarh village, the Opposite Parties- Distribution Company having knowledge of the foreseeable potential danger that the ill- kept electric wires posed on the locality, did not take any steps to change the old wires. He submitted that , due to the failure of Opposite Parties- Distribution Company in properly discharging their duties and responsibility, an innocent man lost his life



and a family not only lost a beloved family member but also the sole breadwinner.

10. Learned Counsel for the Petitioners submitted that the deceased was 54 years old and was working as a daily labourer. He was earning Rs. 2100/- per month and was maintaining a family consisting of his wife and two sons. His death has put the family in grave financial hardship and now it is the responsibility of the Opposite Parties- Distribution Company to adequately compensate the grieving family in monetary terms. In the course of the arguments, the learned counsel for the Petitioners, brought the OERC (Compensation to Victims of Electrical Accidents) Regulation, 2020 to the notice of the court and stated that the Petitioners are entitled to compensation in terms of the aforesaid regulation.

11. Learned Counsel for the Petitioners appraised the Court that the Opposite Parties- Distribution Company by admitting their negligence and liability, had paid a sum of Rs.10,000/- to the Petitioners to perform last rites of the deceased and had assured them to pay a just and proper compensation later. However, due to delay in such payment, the Petitioners approached the Opposite Parties- Distribution Company several times, however, the Opposite Parties- Distribution Company did not take any steps in this regard. Thereafter, on 06.08.2007, the Petitioners sent a legal notice to the Opposite Parties- Distribution Company under Annexure- 5 to the writ petition with a request to pay the compensation. The aforesaid notice was duly received by the Opposite



Parties- Distribution Company on 07.08.2007 as is evident from the postal receipts along with A/D under Anneexure-6 series to the writ petition. However, the Opposite Parties- Distribution Company neither gave any reply to the said notice nor paid any compensation.

12. The poor and helpless Petitioners, having no other recourse against such inaction of the Opposite Parties- Distribution Company, have filed the present writ petition with a prayer before the Court to order the Opposite Parties- Distribution Company to pay compensation of Rs. 2,00,000/- with 12 % interest per annum to the Petitioners.

ANALYSIS BY THE COURT

13. Heard Mr. Bijay Kumar Mohanty, the learned counsel for the Petitioners and Mr. L.K. Maharana Learned Counsel for Opposite Parties- Distribution Company. Perused the writ petition and documents annexed thereto as well as the case laws cited.
14. It is pertinent to note that, the Opposite Parties- Distribution Company were given several opportunities by the Court to deny the averments made and plea taken by the Petitioners, however, the Opposite Parties have not filed any counter affidavit although Mr. Maharana participated in the hearing and opposed the prayer of the Petitioners. This amounts to implied admission of the facts pleaded in the writ petition by the Opposite Parties- Distribution Company by virtue application of the *doctrine of non- traverse*. Therefore, the Court considers the plea and averments of the Petitioners as narrated in the writ



petition supported by documents as annexures. Some of the documents are public documents.

15. After analysis of the admitted facts present before this court, the Court is of the considered view that there is ample material on record in the form of Inquest Report under Annexure- 2, Post Mortem Report under Annexure-3 to the writ petition and Final Report under Annexure-3 writ petition, to hold that the death of the deceased Sanatak Nayak was caused due to electrocution. Such documents being public documents are admissible in evidence.

16. In light of the above observation, the court finds it beneficial to discuss the principle of strict liability under the “law of tort”. The principle of strict liability as propounded in the famous case of ***Ryland v. Fletcher***, reported in ***1868 Law Reports (3) HL 330***, lays down that-

“the person who, for his own purpose, brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and if he does so he is prima facie answerable for all the damage which is the natural consequence of its escape.”

Therefore, rule of strict liability essentially attaches the liability on the undertakers of the hazardous activities, to compensate for damages caused, irrespective of any carelessness on their part. The basis of liability is the foreseeable risk inherent in the very nature of the activities.

17. The Apex Court as well as this Court has consistently held the electricity distribution companies strictly liable for any loss of life, limb or property



resulting due to the supply and distribution of electricity and has awarded compensation to the victims and their families. In the case of ***M.P. Electricity Board v. Shail Kumari and others***, reported in (2002) 2 SCC 162, by applying the rule of strict liability, Apex Court awarded compensation to the widow and dependants of the deceased, who died due to electrocution by coming in contact with a snapped live electric wire lying on the road. The court made the following observation thus,

“7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.

8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of



the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as “strict liability”. It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.”

18. Similarly, in the case of ***Dusmanta Samal v. State of Orissa*** arising out of ***W.P.(C) No. 14548 of 2016***, a coordinate bench of this Court by applying the principle of strict liability, awarded compensation to the father of the deceased who died due to electrocution by coming in contact with a charged electric pole which was maintained by the Opposite Party. The court held that-

“23.Keeping in view the precedents cited above, the materials placed on record and the observation made, the court is of the considered view that, the prayer made by the Petitioners is sustainable. The opposite parties are engaged in a hazardous activity, and they will be strictly liable for the loss of life that had occurred due to their undertaken activity. The judiciary as the guardian of the Constitution and the protector of fundamental rights, has never shied away from trying to make good of what is lost in monetary terms. It is universal truth that loss of human life can never be compensated by bringing back a dead young man to life, however, the bereaved family can be compensated in monetary terms for the loss of income sustained by such family due to untimely death of a young member of the family.”



CONCLUSION

19. Therefore, in the light of the arguments advanced, case laws cited and the admitted fact that the death was caused due to electrocution by coming in contact of a snapped L.T. line electric wire lying on the road and the fact that the Opposite Parties- Distribution company had the statutory responsibility of distribution and supply of electricity in the locality, the court is of the considered view that by application of the principle of strict liability, the Opposite Parties- Distribution Company are strictly liable for the death of deceased and are liable to pay compensation to the Petitioners.
20. Coming to the quantum of compensation, the learned counsel for the Petitioners has brought the 'OERC (Compensation to Victims of Electrical Accidents) Regulations, 2020' which came into force on 30.05.2020, to the notice of the court. But the aforesaid regulation won't apply to the present case as the death occurred in the year 2007. However, the court deems it proper to refer to the scale of compensation laid down in the aforesaid regulation. As per regulation 5 of the aforesaid regulations, the quantum of compensation payable in the event of a loss of human life has been fixed to the tune of Rs.4,00,000/- (Rupees Four Lakhs) per person. As such, keeping in view the aforesaid regulation and keeping in view the prayer made in the writ petition particularly with regard to the quantum of compensation, this Court deems it proper to direct the Opposite Parties to pay an interim compensation of Rs.2,00,000/-(Rupees



Two lakhs) to the Petitioners within a period of two months from the date of this judgement. The aforesaid shall carry interest @8% from the date the incident took place till payment of such amount as directed hereinabove. In the event the payment is made after expiry of the aforesaid time stipulation, the compensation amount shall carry interest @12% till the date of actual payment is made to the Petitioners. Further, liberty is granted to the Petitioners to pursue other suitable remedies in the common law forum for higher compensation, if so advised.

21. Writ petition stands disposed of in favor of the Petitioners. However, there shall be no orders as to cost.

(Aditya Kumar Mohapatra)
Judge

Orissa High Court, Cuttack

The 28th July, 2025/ S.K. Rout, Jr. Stenographer