

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 13.12.2023

Pronounced on: 30.12.2023

WP(C) No. 2362/2021

1. Mohd. Mushtaq Appellant(s)/Petitioner(s)
S/O Mohd. Hussain
R/O Village Sabzi (Dodaj) Tehsil
Darhal and District Rajouri.

Through: Mr. Intikhab Shah, Advocate.

Vs

1. Union Territory of Jammu and Kashmir Respondent(s)
Th. Principal Secretary, Power
Development Department, Civil
Secretariat, Jammu.

2. Development Commissioner (Power)
Government of Jammu and Kashmir,
Janipur, Jammu

3. Chief Engineer, (Distribution)
Jammu Power Development Corporation
LTD (JPDCL).

4. Superintending Engineer,
Operation and Maintenance Circle,
Rajouri.

5. Executive Engineer,
Jammu Power Distribution Corporation
Ltd. Electric Division, Rajouri.

Through: Mr. Amit Gupta, AAG.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioner has filed the present petition for grant of compensation for an amount of Rs. 40 Lakhs on account of injuries suffered by him because of the negligence of the officials of the respondents in maintaining the wires, resulting into 60% disablement of the petitioner.

2. It is stated that on 15.06.2017, when the petitioner stepped outside his house, he suffered electric shock from the low transmission line that was passing through the roof of the petitioner and was not properly maintained by the respondents. It is further stated that immediately after the petitioner was electrocuted, he was shifted to Government Hospital, Rajouri, wherefrom he was referred to Government Medical College and Hospital, Bakshi Nagar, Jammu for treatment. During hospitalization, the petitioner developed gangrene in his right hand due to severe infection and fingers of his right hand were amputated.
3. The case projected by the petitioner is that due to the burn injuries suffered by him, fingers of his right hand were amputated because of sheer negligence and carelessness on part of the officials of the respondents in the maintenance of the electric wires. It is stated that the petitioner was 21 years of age and was working as a labourer to feed his family. The petitioner is the eldest son in the family and because of the negligence on part of the respondents, he has become permanently disabled for the rest of his life at this young age. The disablement of the petitioner has been assessed at 60% by the Office of the Chief Medical Officer, Health and Family Welfare Rajouri vide certificate No. CMO/DMB/R23 dated 24.10.2017.
4. The petitioner has claimed the compensation of Rs. 40 Lakhs as the entire life of the petitioner has been ruined due to the aforementioned incident and the petitioner now cannot lead a normal life like other young persons like him.

5. The petitioner claims to have served notice dated 16.04.2021 upon the respondents, but till date no compensation has been paid to him by the respondents. It is also averred that after receiving the abovementioned notice, the respondent No. 3 sought a report from the concerned authorities and the respondent No. 4 vide report dated 10.09.2021 stated that after conducting enquiry from the spot, it was found that one person namely Mushtaq Hussain S/o Mohd. Hussain got electric shock on 15.06.2017 with the low transmission line passing near the roof of the residential house, resulting into amputation of his right hand.
6. Response stands filed by the respondents, stating therein that the disputed questions of facts have been raised, which cannot be gone into by this Court in exercise of the extra-ordinary writ jurisdiction, as such, the writ petition deserves to be dismissed. It is further stated that no such incident of electrocution took place on 15.06.2017 and no incident of electrocution was reported at any point of time to any authority including the Police Authorities. It is further stated that the story seems to be an afterthought and the same is cooked up by the petitioner, as such, he is not entitled to any compensation.
7. Heard and perused the record.
8. The question that arises for consideration by this Court is as to whether the petitioner suffered injuries due to electrocution resulting into amputation of fingers of his right hand because of negligence on part of the officials of the respondents in maintaining the electric wires or not. It is evident from the record that there is no Police report in respect of the alleged incident of electrocution but at the same time the petitioner has

placed on record the medical record in respect of injuries suffered by him. The discharge report and the follow-up card reflect the date of admission of the petitioner in the hospital as 17.06.2017 and the date of discharge as 09.09.2017. In the medical record, the petitioner has been shown to have suffered electric burns resulting into amputation of his thumb, index finger and middle finger with contraction of ring finger and little finger. Though there is no Police report in respect of the incident, but in view of the medical record placed on record by the petitioner and the same not being disputed by the respondents, it is evident that the petitioner suffered electric burns. Further, the respondents have not denied the communication dated 10.09.2021 addressed by the respondent No. 5 to the respondent No. 4 that one person namely Mohd Mushtaq S/o Mohd. Hussain R/o Sabzi Dodaj got electric shock on 15.06.2017 with LT line passing near the roof of his residential house, causing amputation of his right hand. Thus, it is evident that the petitioner suffered injuries due to electrocution because of the negligence on part of the officials of the respondents, as they were required to maintain safe distance between the house and wires so that the wires could not come into contact with the human beings.

9. Now, the other issue that arises for consideration of this Court is the quantum of compensation. Not only this Court but various High Courts have been applying the principles applicable in the motor accidents claims cases for grant of compensation to the cases for grant of compensation arising out of electrocution incidents as well.

10. The petitioner was 21 years of age and was working as a labourer. He suffered electric shock on 15.06.2017. The Labour and Employment Department of Government of Jammu and Kashmir has prescribed the minimum wages of un-skilled workers as Rs. 225/- per day as per the notification dated 26.10.2017. Though this notification came into force in November 2017, but the proposal for revising the minimum wages was floated in the month of February 2017, as such, the wages of Rs. 225/- payable to the un-skilled worker can be considered as the daily income of the petitioner, which if converted to monthly income would come around to Rs. 6750/-. The same is required to be enhanced by 40 percent by taking into consideration the judgment of Hon'ble the Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi and another** reported as **(2017) 16 SCC 680**. As such, the enhanced monthly income of the petitioner is Rs. 9,450/-. Moreover, taking into consideration the age of the petitioner, the multiplier applicable would be 18. The petitioner has suffered 60 percent disability, as such, he is required to be paid Rs. 12,24,720/- as compensation on account of loss of his future earnings.
11. Since the petitioner has suffered amputation of fingers, as such, this court is of the considered view that he is entitled to compensation on account of pain and suffering and loss of amenities of life, and as such, he is awarded Rs. 1.00 lac in lump sum for the same.
12. Accordingly, the compensation to which the petitioner is held entitled to is assessed as under:-

1) Loss of future earnings:	Rs. 12,24,720/-
2) Loss of Amenities of life & Pain and suffering:	Rs.1,00,000/-
Total :-	Rs. 13,24,720/-

13. In view of the above, the respondents are directed to pay an amount of Rs. 13,24,720/- (Rupees Thirteen Lakhs Twenty Four Thousand Seven Hundred Twenty only) to the petitioner along with interest @ 6% per annum, except upon the component of future earnings, from the date of filing of the petition till its realization.
14. Disposed of.

(RAJNESH OSWAL)
JUDGE

Jammu
30.12.2023
Sahil Padha

Whether the order is speaking: Yes/No.
Whether the order is reportable: Yes/No.

