

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

**LPA No. 38/2024
CM Nos. 1140/2024 & 1146/2024**

UT of J&K and ors.

.....Appellant(s)/Petitioner(s)

Through: Mr. Raman Sharma, AAG

Vs

Pushwinder Singh

..... Respondent(s)

Through: Mr. Rajnish Singh Parihar, Advocate

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

**JUDGMENT
04.08.2025**

ORAL

1. This *intra court* appeal is directed against the judgment dated 19.10.2023 passed by the learned Writ Court in OWP No. 1343/2017, whereby the learned Writ Court has directed the appellants herein to pay a sum of Rs. 28,10,000/- (Rupees Twenty Eight Lacs Ten Thousand Only) along with interest @ 5% per annum except for the loss of income to the respondent from the date of institution of the petition till realization of the amount on account of disablement suffered by him in the incident of electrocution on 08.11.2014.

2. The appellants have assailed the judgment on the following grounds:-

(a) That in terms of Government Order No. 328-PDD of 2011 dated 24.11.2011, read with Government Order No. 454-F of 2019 dated 24.10.2019, the respondent was only entitled to grant of ex-gratia relief.

(b) That the appellants were never responsible for the incident, rather the incident took place because of negligence of the respondent only.

(c) That there was no evidence with regard to income of the respondent and as such, learned Writ Court has granted the exorbitant amount of compensation on mere assumptions and presumptions.

3. Mr. Raman Sharma, learned AAG has submitted that the incident did not take place because of negligence of the appellants or their officials but because of the respondent and further that the respondent was only entitled to ex-gratia relief in terms of Government Order No. 328-PDD of 2011 dated 24.11.2011, read with Government Order No. 454-F of 2019 dated 24.10.2019. He has further argued that the learned Writ Court has granted exorbitant compensation on mere assumptions and presumptions.
4. *Per contra*, Mr. Rajnish Singh Parihar, learned counsel for the respondent has submitted that the Assistant Executive Engineer, Electric Maintenance and Rural Electrification, Sub-Division Sunderbani in his report has categorically mentioned that 11 kv feeder was under shutdown and the respondent was isolating a section of the line by opening the Jumpers. He opened two jumpers smoothly and while opening third jumper, he got an electric shock and fell down and further, it was revealed that there was sudden flow of charge in the electric line. He has further argued that disability certificate issued by the competent authority establishes that the respondent has suffered

locomotor permanent disability of 90% and 60% disability on account of physical impairment of bladder and further that the respondent has paraplegia, as such, there is total loss of earning capacity of the respondent. He has further relied upon the judgment of the Co-ordinate Bench of this court to submit that the orders issued by the Government for grant of ex-gratia relief cannot come in the way of the constitutional courts to award compensation in favour of the victim of electrocution.

5. Heard learned counsel for the parties and perused the record.
6. This is an admitted case of the parties that the respondent was working as a need-based worker with the appellants. The record depicts that on 08.11.2014, while working on an electric poll for disconnecting the jumper for restoration of power, the respondent suffered an electric shock, as a result of which, he fell down. The respondent was taken to Sunderbani hospital for treatment and thereafter to GMC Hospital at Jammu and finally to Amritsar where the respondent was operated upon and his right arm was amputated. In order to substantiate the incident of electrocution, the respondent has placed on record FIR No. 68/2016 registered with Police Station, Sunderbani. The respondent has further placed on record the disability certificate dated 19.10.2022 which demonstrates that he has suffered 90% Locomotor disability due to transhumeral amputation of right arm and 60% on account of physical impairment of bladder. The disability certificate further reveals that the respondent has paraplegia with neurogenic bladder on ID catheter, Grade II Bed sores. It is evident that the respondent is in pathetic medical condition.

7. The appellants have not denied the report of Assistant Executive Engineer, Electric Maintenance and Rural Electrification, Sub-Division, Sunderbani and after examining the said report, we find the cause for incident of electrocution was sudden flow of charge on the line which caused injury to the respondent while he was opening the third jumper. In the report, it was stated that there was shutdown at 12:28 hours onwards and it is not forthcoming as to how there was sudden flow of charge on the electric line, when there was shutdown. We have not even an iota of doubt in our mind that the incident took place because of negligence of the appellants and their officials only. Accordingly, we do not find substance in the contention raised by the appellants that it was the negligence of the respondent that he suffered an electric shock and as such, this contention is rejected.
8. It is next contended that the respondent could not have been granted more compensation other than the one provided in the form of ex-gratia in terms of Government Order No. 328-PDD of 2011 dated 24.11.2011 read with Government Order No. 454-F of 2019 dated 24.10.2019. A Co-ordinate Bench of this Court has already considered this issue in case titled '**State of J&K Versus Abrar Ahmad Tantray & Anr., reported as JKJ ONLINE 89305**' and has held as under:-

“11. The first contention of the appellants is that the learned writ Court has not taken note of the order dated 24.10.2019, which provides for grant of ex-gratia relief to the victims of electrocution. This is true that the learned writ Court has not taken note of the Government Order dated 24.10.2019, but we are of the considered view that mere non-consideration of the order dated 24.10.2019, would not have any effect on the merits of the claim of the respondent. The expression 'ex-gratia' means out of grace or gratuitous. The ex-gratia relief in fact is the amount which the Government has volunteered to pay to the victims of electrocution due to negligence of the

Power Development Department. **The policy for grant of ex-gratia relief cannot come in the way of Courts to compensate the victims for the electrocution in an appropriate manner.** Thus, this contention of the appellant is accordingly rejected.

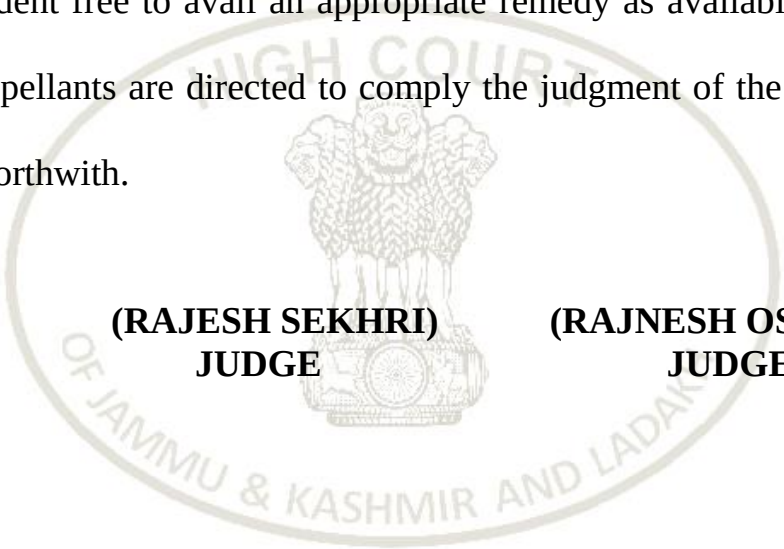
(emphasis added)

In view of the above, this contention of the appellant is also found to be misconceived.

9. Lastly, it is contended that exorbitant compensation has been awarded to the respondents. Perusal of the judgment impugned reveals that the learned Writ Court has applied the multiplier of 17 while taking into consideration the age of the respondent as 28 years, whereas, in fact at the time of incident, the respondent was 25 years of age. In our opinion, appropriate multiplier of 18 ought to have been applied. Further, the learned Writ Court has considered the respondent as skilled labourer and has determined his income as Rs. 200/- per day in terms of the wages fixed by the Government. The appellants have also not disputed the wages of skilled labourers at the relevant point of time as mentioned in Para '16' of the judgment impugned. The learned Writ Court has further wrongly enhanced the future income by 25% which ought to have been enhanced by 40% in view of the judgment of the Hon'ble Apex Court in case titled, '**National Insurance Company Ltd. vs. Pranay Sethi and ors.**' reported in **2017(16) SCC 680**. The interest component has also been awarded @ 5% per annum, which ought to have been 6% per annum. Had the learned writ court rightly considered the age and applied the multiplier accordingly and further enhanced the enhancement of income in future by 40%, the respondent would have been held entitled to higher compensation than the one granted by the

learned writ court, as such, it cannot be said that exorbitant compensation has been awarded to the respondent. As the respondent has not chosen to assail the judgment, therefore, in absence of any challenge thrown to the judgment impugned in this appeal, we are not inclined to enhance the compensation as awarded by the learned Writ Court.

10. For what has been said and discussed herein above, judgment dated 19.10.2023 passed by the learned Writ Court in OWP No. 1343/2017 is upheld and the appeal is, accordingly, **dismissed**, however, leaving the respondent free to avail an appropriate remedy as available under law. The appellants are directed to comply the judgment of the learned writ court forthwith.



(RAJESH SEKHRI)
JUDGE

(RAJNESH OSWAL)
JUDGE

Jammu
04.08.2025
Neha-II

<i>Whether the order is speaking:</i>	<i>Yes/No</i>
<i>Whether the order is reportable:</i>	<i>Yes/No</i>