

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

Reserved on: 16.12.2025
Pronounced on 24.12.2025
Uploaded on 24.12.2025

*Whether the operative part or full judgment
is pronounced: **Full Judgment***

CJ Court:

**Case: LPA No. 57/2025 in
OWP No. 772/2004
CM Nos. 1792-1793/2025**

1. State (now U.T.) of J&K through Chief ...Petitioner(s)/Appellant(s)
Secretary to Govt. Civil Secretariat,
J&K Jammu/Srinagar.
2. Chief Engineer, Power Development
Department (EM& RE), Jammu.
3. Divisional Engineer, Electricity
Department, Prade Ground, Jammu.
4. Director General of Police, J&K,
Jammu.

Through:

Mr. Raman Sharma, Sr. Advocate (AAG) with
Ms. Jagmeet Kour, Assisting Counsel.

v/s

.... Respondent(s)

1. Gulshan Ara Age 22 years Wd/o
Late Sh. Liaqat Ali.
2. Kashif Ali, age 03 years S/o Late Sh.
Liaqat Ali (Minor through the
natural Guardian)
–both residents of Choudhary
(Rehtal), Tehsil and District Rajouri.

Through:

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

'OSWAL-J'

CM NO. 1792/2025

1. This is an application seeking condonation of 201 days' delay in filing the accompanying appeal.
2. For the reasons stated in the application, coupled with the submissions made at bar, which is duly supported by an affidavit, the delay in filing the appeal is condoned.
3. Application is disposed of.
4. Main appeal is taken up on board.

LPA No. 57/2025

5. The instant intra-court appeal is directed against the judgment dated 02.04.2024 passed by the learned Writ Court in OWP No. 772/2004, titled, '*Gulshan Ara and Anr. vs. State of J&K and Ors*', whereby the learned Writ Court has held the respondents entitled to compensation to the tune of Rs. 16,53,652/- alongwith simple interest @ 6% per annum from the date of filing of the writ petition until its recovery and fastened the liability of payment on the appellants.
6. The appellants have challenged the judgment dated 02.04.2024 primarily on the ground that the writ petition involved disputed questions of fact. They contend that these issues require adjudication by a Civil Court and fall beyond the proper scope of writ jurisdiction. It is further contended that, pursuant to Government Order No. 723-GR (GAD) of 1990 dated

10.07.1090, the respondents were entitled only to ex-gratia relief for the amount of Rs. 5.00 lacs, as the deceased was a member of the police force. The appellants maintain that there being no negligence on the part of the officials of the Power Development Department in relation to the electrocution of the deceased, they cannot be held responsible for the occurrence, and that the liability for payment of the said amount was improperly fastened upon them.

7. Mr. Raman Sharma, learned AAG, submitted that the learned Writ Court ought to have relegated the respondents to the Civil Court for redressal of their grievance as they had sought compensation in a writ petition involving disputed questions of fact. It is further submitted that in terms of Government order dated 10.07.1990, the respondents were entitled only to ex-gratia relief to the extent of Rs. 5.00 lacs.
8. Heard learned counsel for the appellants and perused the record.
9. The record depicts that the respondents had filed the writ petition for commanding the appellants to pay compensation of Rs. 25.35 lacs alongwith interest @ 12% per annum on account of the demise of Liaqat Ali, who was the husband of respondent No. 1 and father of respondent No. 2. The incident took place near TCP Nagrota at about 5:00 a.m. on 03.12.2003, when the deceased, Liaqat Ali, came into contact with a live electric wire that had fallen to the ground. Liaqat Ali was serving as a Selection Grade Constable with Traffic Police and posted on the National Highway. The case projected by the respondents was that, while Liaqat Ali had gone to attend the call of nature, he came into contact with a live

electric wire lying on a public way, as a result whereof, he suffered serious burn injuries. He was immediately rushed to the Government Medical College, Jammu, where he was declared dead. As per the post-mortem report, the cause of death was recorded as “shock as a result of electrocution by high-tension live wire”. In relation to the said incident, FIR No. 189/2003 was also registered with at Police Station Nagrota against the appellants' employees, alleging negligence in the maintenance of the electric line. By placing these facts before the learned writ court, the respondents sought compensation for the death of Liaqat Ali. Alongwith the petition, the respondents also placed on record the salary certificate of the deceased, which indicated that he was drawing a monthly salary of Rs. 7,763/-.

10. The appellants contested the respondents' claim, asserting that the issues raised involved disputed questions of law and fact, which were not amenable to adjudication under the court's extraordinary writ jurisdiction. It was further contended that there was no negligence on the part of the employees of the appellants and Liaqat Ali had, of his own volition, entered the PHE complex, prohibited area, not accessible to the general public, and the electrocution occurred solely due to his own negligence.
11. The first contention urged by the appellants is that disputed questions of fact were involved, as such, the same could not have been decided in the writ jurisdiction. The record reveals that the respondents have placed on record a copy of FIR No. 189/2003 registered with Police Station, Nagrota, as well as a copy of the charge-sheet bearing No. 35/2004 filed

against the officials of the appellants for the offences punishable under Section 304-A RPC. The allegations in the charge sheet are that the deceased came into contact with a live electric wire lying on a common pathway, resulting into his death, and that the said incident occurred due to the negligence of the officials of the appellants. The post-mortem report further corroborates the allegations levelled in the charge-sheet that Liaquat Ali died due to electrocution. The involvement of disputed factual questions is not an absolute bar to the exercise of writ jurisdiction. This restriction is only where the facts are so complex that they cannot be determined by relying on the record, thereby necessitating a trial. As such, there is no force in this contention of the appellants, the same is rejected. In this context, it would be apposite to take note of the judgment of the Hon'ble Supreme Court of India in '**A.P. Electrical Equipment Corpn. Vs. Tehsildar**', 2025 INSC 274, wherein it has been held as under:

“47. One stock argument available with the State in this type of cases is that the question whether the actual physical possession of the disputed land had been taken over or not is a seriously disputed question of fact, which the High Court should not adjudicate or determine in exercise of its writ jurisdiction. **As a principle of law, there need not be any debate on such a proposition, but by merely submitting that it is a seriously disputed question of fact, the same, by itself, will not become a question of fact. To put it in other words, having regard to the materials on record, which falsifies the case of the State Government, then such materials should not be overlooked or ignored by the Court on the principle that the issue with regard to taking over of the actual physical possession would be a disputed question of fact.**

48. Normally, the disputed questions of fact are not investigated or adjudicated by a writ court while exercising powers under Article 226 of the Constitution of India. But the mere existence of the disputed question of fact, by itself, does not take away the jurisdiction of this writ court in granting appropriate relief to the petitioner. In a case where the Court is satisfied, like the one on hand, that the facts are disputed by the State merely to create a ground for the rejection of the writ petition on the

ground of disputed questions of fact, it is the duty of the writ court to reject such contention and to investigate the disputed facts and record its finding if the particular facts of the case, like the one at hand, was required in the interest of justice.

49. There is nothing in Article 226 of the Constitution to indicate that the High Court in the proceedings, like the one on hand, is debarred from holding such an inquiry. The proposition that a petition under Article 226 must be rejected simply on the ground that it cannot be decided without determining the disputed question of fact is not warranted by any provisions of law nor by any decision of this Court. A rigid application of such proposition or to treat such proposition as an inflexible rule of law or of discretion will necessarily make the provisions of Article 226 wholly illusory and ineffective more particularly Section 10(5) and 10(6) of the Act, 1976 respectively. Obviously, the High Court must avoid such consequences.

(emphasis added)

12. Regarding the appellants' contention that the deceased was entitled only to ex-gratia relief, it is pertinent to note that no such Government order has been placed on record. Even this plea was not raised before the learned writ court. Furthermore, the respondents' right to seek compensation for the death of Liaqat Ali, resulting from the negligence of the appellants' officials, cannot be extinguished merely by the existence of a Government order providing for ex-gratia relief. Moreover, there is nothing on record to indicate that any such ex-gratia amount under the said Government order was ever paid to the respondents.
13. We have examined the judgment passed by the learned Writ Court and find that the learned Writ Court has rightly applied the settled principles for grant of compensation in motor vehicle accident cases, while determining the compensation of Rs. 16,53,652/- payable to the respondents. The appellants have failed to demonstrate before this Court that the compensation so awarded to the respondents is either exorbitant

or excessive. Rather the learned Writ Court has placed reliance on the judgments of the Hon'ble Supreme Court of India in “**UP State Cooperative Land Development Bank Ltd. vs. Chandra Bhan Debey**”, (1999) 1 SCC 741, “**MP Electricity Board vs. Shall Kumar**”, AIR 2002 SC 551 and “**National Insurance Company Ltd. vs. Pranay Sethi**”, (2017) 16 SCC 680 for arriving at the conclusion in respect negligence of the officials of the appellants as well as for determining the compensation payable to the respondents.

14. In view of the foregoing discussion, we find no illegality, infirmity or perversity in the impugned judgment passed by the learned Writ Court. The appeal being misconceived is **dismissed**.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
24.12.2025
Karam Chand

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