

AFR



2026:AHC:87297-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 61435 of 2010

Gangadhar Tiwari Petitioners(s)

Versus

State of U.P. and Respondents(s)
Others

Counsel for Petitioners(s)	: Brijesh Chandra Naik, I. N. Pandey, Kamlakar Dwivedi, S. P. Singh Parmar
Counsel for Respondent(s)	: C. S. C., H.P.Dube, Sandep Kumar Srivastava, Sushil Kumar Pandey

Along with :

Writ - C No. 51093 of 2010:

1. Managing Director Uppcl and others
Versus
Additional District Magistrate S.R.N. and others

Court No. -21

HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.

1. Heard Shri Kamlakar Dwivedi, learned counsel for the petitioner (respondent no.2 in connected Writ-C No.51093 of 2010; Shri Devesh Vikram, learned Addl. Chief Standing Counsel for State respondents and Shri Sushil Kumar Pandey, learned counsel for respondent nos.3 & 4- Purvanchal Vidyut Vitran Nigam (Electricity

Distribution Division-II), Sant Ravidas Nagar (Bhadohi)¹ (the petitioners in connected Writ-C No.51093 of 2010).

FACTS

2. Since the controversy involved in both the writ petitions are similar, with the consent of learned counsel for parties, they are being decided by this common order.

3. The facts of Writ-C No.61435 of 2010 are being taken as leading case for deciding the controversy.

4. The facts of the case in brief are that on 09.12.2006, when the claimant-petitioner (Gangadhar Tiwari) was going to answer the call of nature in the morning, he came into contact with live electrical wire of 11000 KV and sustained severe burn injuries due to electrocution. Somehow with the help of stick and bamboos the petitioner was separated from the live electrical wire due to which the life of the petitioner was saved. It is alleged that the electrical wire was broken on 7.12.2006 and on the same day Gram Pradhan had informed about the same to the concerned Junior Engineer of the Electricity Distribution Division, Wahida Nagar Power House, Distt. Sant Ravidas Nagar, Bhadohi but inspite of the information, the broken electrical wire was neither repaired nor electric supply was stopped. The information of the said unfateful incident was also given to the Police Station, Koirauna, Distt. Sant Ravidas Nagar, Bhadohi. The petitioner was treated in several hospitals and due to the said electrocution the petitioner has suffered from 40% permanent disability.

1 Nigam

5. The petitioner filed a Claim Petition No.7 of 2007 in the court of Additional Collector/ Accident Claim Tribunal, Sant Ravidas Nagar, Bhadohi under Section 6 (1) of Public Liability Insurance Act, 1991² claiming Rs.10 lacs as compensation. The claim petition was allowed on 21.5.2010 awarding compensation of Rs.4 lacs in favour of the petitioner.

6. It is alleged that the Addl. Collector/ Accident Claim Tribunal, Sant Ravidas Nagar has not paid compensation to the petitioner towards loss of actual earning, mental agony and medical expenses. Such situation has impelled the petitioner to invoke the writ jurisdiction by way of instant writ petition for the following reliefs:-

"(a) Issue a writ, order or direction in the nature of mandamus enhancing the amount of Rs.4,00,000/- awarded by Additional Collector/ Accident Claim Tribunal, Sant Ravidas Nagar, Bhadohi in Claim Petition No.7 of 2007 under Section 6 (1) of Public Liability Insurance Act, 1991 to Rs.10,00,000/- and directing the respondent no.2 to pay the enhanced amount to the petitioner."

7. The order dated 21.5.2010 passed by the Addl. Collector/ Accident Claim Tribunal, Sant Ravidas Nagar was challenged by the U.P. Power Corporation³ in connected Writ-C No.51093 of 2010. In the said writ petition, following interim order was passed by the Coordinate Bench of this Court on 26.08.2010:-

"Heard learned counsel for the petitioner and learned standing counsel appearing for the respondents."

Notices on behalf of respondents no. 1 and 3 have been accepted by learned standing counsel. He prays for and is granted one month's time to file counter affidavit. Three weeks thereafter is allowed to the petitioner to file rejoinder affidavit."

² Act, 1991

³ Corporation

Issue notice to respondent no. 2 through registered post.

Steps be taken within two weeks. Office shall send notice returnable at an early date.

List this case on the date fixed by the office in the notice.

Counsel for the petitioner has urged that the order passed by Additional District Magistrate, Sant Ravidas Nagar (Bhadohi) is without jurisdiction as the Public Liability Insurance Act, 1991 is not applicable to U.P. Corporation or a person who receive any injury or death or damage. Hence the petitioner is entitled for interim relief.

Until further order of this Court, the effect and operation of order dated 21.5.2010 passed by Additional District Magistrate, Sant Ravidas Nagar, Bhadohi (annexure 2 to the writ petition) shall remain stayed."

ARGUMENTS ON BEHALF OF PETITIONER

8. Learned counsel for the petitioner vehemently argued that although the information of broken wire was already furnished by the Gram Pradhan to the Electricity Department but the Electricity Department in gross negligence did not repair the high voltage wire, which resulted in the 40% permanent disability of the petitioner.

9. He further argued that even the Claim Petition No.7 of 2007 was allowed on 21.05.2010 but the Tribunal has not awarded compensation towards actual earning, mental agony and medical expenses.

10. Learned counsel for the petitioner has stated that the Act, 1991 is fully applicable in the instant case and the objection qua its maintainability is misplaced.

ARGUMENTS ON BEHALF OF RESPONDENT-NIGAM

11. Learned counsel for the Nigam has vehemently opposed the relief claimed by the claimant-petitioner (Gangadhar Tiwari). He states that the Corporation is the licensee under the provisions of Electricity Act, 2003⁴ and Nigam comes under it. The Nigam is distributing electricity within the area of their operation strictly in accordance with law to the satisfaction of the consumers. It is alleged that in the said claim petition the notices issued to the Nigam could not be served and as such Nigam could not acquire knowledge about the pendency of the said claim petition. Without there being any finding on the ordersheet to the effect that the service of notice could not be effected on the Nigam by hand or by registered post, straightaway order for publication of notice was passed and an alleged copy was filed on record after its publication and the matter was directed to be decided exparte. Eventually the claim petition was allowed on 21.5.2010 granting compensation to the petitioner for a sum of Rs.4 lacs.

12. Learned counsel for the Nigam further contended that the order impugned dated 21.5.2010 is totally arbitrary and patently illegal and the same is liable to be quashed. He submits that the claim petition filed by the petitioner purporting to be under Section 6 (1) of the Act, 1991 will not apply for grant of compensation in case of electrocution. The Act, 2003 is a special enactment and there is provisions for enquiry in case of accident to be conducted by the Electrical Inspector under Section 161 of the Act, 2003. Therefore, unless the

⁴ Act, 2003

enquiry under Section 161 of the Act, 2003 is conducted, no compensation can be awarded by any court or authority. The notices in the said claim petition were not actually served upon the Nigam and as such the order impugned is arbitrary and illegal being exparte.

13. Learned counsel for the Nigam lastly submitted that only in this backdrop the Division Bench has rightly passed the interim order dated 26.8.2010 as the order impugned is without jurisdiction and the Act, 1991 is not applicable to U.P. Power Corporation or a person, who receive any injury or death or damage.

ARGUMENT OF STATE RESPONDENTS

14. Shri Devesh Vikram, learned Addl. Chief Standing Counsel, while adopting the submissions made by learned counsel for the Nigam vehemently argued that the Act, 1991 is not applicable in the instant matter. He submitted that the Act, 1991 is made for business handling hazardous substances to provide immediate relief to victims of industrial accidents, as such the order passed by the Addl. Collector is illegal and without jurisdiction.

REJOINDER ARGUMENTS ON BEHALF OF PETITIONER

15. Learned counsel for the petitioner-claimant, in rejoinder arguments, vehemently opposed the contention of learned counsel for Nigam and submitted that the Addl. District Magistrate has rightly proceeded to accord compensation under the Act, 1991 as the same would definitely be attracted in the instant matter. He submits

that similar controversy has earlier been raised in Writ-C No.12492 of 2017 (Purwanchal Vidyut Vitran Nigam Ltd. v. Pradeep Kumar Bind & Anr.) in which the Division Bench has refuted the similar contentions raised by learned counsel for Nigam and proceeded to dismiss the writ petition on 27.3.2017.

16. Learned counsel for the claimant-petitioner, in this backdrop, has submitted that the Addl. Collector is competent to accord compensation under the Act, 1991. The claimant-petitioner has sustained permanent disability and while passing the order impugned the Addl. Collector has not only accorded ex-gratia payment of Rs.4 lacs but also accorded said amount towards medical expenses. The petitioner is entitled for ex-gratia payment under the Act, 1991.

17. Learned counsel for the petitioner, in support of his submissions, has also placed reliance on the judgment passed in U.P. State Electricity Board & Ors. v. District Magistrate, Dehradun & Ors.⁵, wherein learned Single Judge while considering the Act, 1991 and Environment (Protection) Act, 1986⁶ has found that the electricity is hazardous and also substance and, therefore, learned Single Judge had denied to interfere in the impugned award. Learned Single Judge had also provided that the claimant in addition to the amount awarded to them by the impugned award may also institute any other proceeding for claiming further relief.

18. Learned counsel for the petitioner submits that the relief has rightly been accorded by Addl. Collector under the Act, 1991, which warrant no interference. It is

5 (1997) 2 UPLBEC 1344

6 Act, 1986

contended that on account of pendency of instant proceedings as well as continuation of interim order for more than 15 years, the claimant-petitioner has suffered a lot. Due to sustaining grievous injury causing permanent disability, the claimant-petitioner is not capable to discharge his day to day work. He submits that the compensation is not commensurate to his disability and as such indulgence may be accorded in favour of the claimant-petitioner.

ANALYSIS BY THE COURT

19. Heard rival submissions, perused the record and respectfully considered the judgments cited at Bar.

20. The precise objection as raised by learned counsel for the Nigam is that in the instant proceeding the Act, 1991 is not applicable. In order to appreciate the controversy, it would be apt to have a glance on the judgment in *Purwanchal Vidyut Vitran Nigam Ltd. v. Pradeep Kumar Bind & Anr. (Supra)*, which is reproduced as under:-

"Heard Mr Narendra Kumar Tiwari, learned counsel for the petitioner and Mrs Subhash Rathi, learned Additional Chief Standing Counsel for respondent no.2.

This writ petition, filed by the Electricity Distribution Company, challenges the order dated 29.12.2016 passed by respondent no.2-District Magistrate, whereby compensation of Rs.5,79,456.00 has been awarded, on the application made by respondent no.1, who suffered permanent disability on account of an electrocution accident. The challenged is raised on two grounds. Firstly, that the provisions of the Public Liability Insurance Act, 1991 (in short 'the Insurance Act') are not attracted in view of the fact that such accidents are covered by the rules framed under the Electricity Act, 2003. Secondly, that even if it is held that the provisions of the Insurance Act are attracted, the Collector has no power to grant

anything more than what is prescribed in the Schedule appended to the Act.

In our opinion, both the submissions advanced by learned counsel for the petitioner deserve to be rejected outright. Section 22 of the Insurance Act clearly provides that the provisions of this Act and any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law. It may be true that a person, like respondent no.1, may have a remedy under the provisions of the rules framed under the Electricity Act, 2003, but that itself would not debar him from making an application under the provisions of the Insurance Act more particularly, in view of the provisions contained in Section 22 thereof. Hence, the first submission deserves to be rejected outright and is rejected as such.

The second submission advanced by learned counsel for the petitioner is based on Section 3 of the Insurance Act, which places a liability to give relief in certain cases on the principle of "no fault-liability". The application made by respondent no.1 was not under Section 3, but it was under Section 6 of the Insurance Act, which does not put any restriction on the powers of the Collector to award an amount as relief which appears to him to be just. Section 3 confers power only to give the minimum relief to a victim in terms of a scale as provided for in the Schedule. Insofar as the power of the Collector to award relief under Section 6 of the Insurance Act is concerned, it is unlimited and it is left to the Collector to make an award determining the amount of relief which appears to him to be just. This power cannot be curtailed and is not curtailed by the provisions of this Act or any other Act.

It is needless to mention that the learned counsel for the petitioner, though made submissions as aforementioned, he did not point out any provisions in support of his contention or judgment of either this Court or any other High Court or the Supreme Court.

In the circumstances, we find no merit in the writ petition. The writ petition is dismissed. "

21. In the said judgment, the Court had considered Section 22 of the Act, 1991 and negated the claim of Electricity Department and held that in addition to the Act, 2003, the Act, 1991 would also be attracted in the instant matter. As such the objection raised by Nigam that Act, 1991 is not applicable in the instant matter is

not tenable as the same has been clearly answered by the Division Bench in the aforesaid judgment.

22. In a similar matter, vide judgment and order passed by learned Single Judge in U.P. State Electricity Board & Ors. v. District Magistrate Dehradun & Ors. (Supra), it has been held that electricity is both hazardous and substance and it is also admitted that the petitioner has sustained permanent disability from electrocution.

23. Nothing is brought on record to suggest that the aforesaid judgments have been annulled or modified or they do not hold the field.

24. We have also occasion to peruse the judgment and order dated 19.09.2014 passed in Writ-C No.23783 of 2010 (Neetu Devi v. State of U.P. & Ors.), wherein the Division Bench has also considered the judgment passed by the Apex Court in Raghuvansh Dewanchand Bhasin v. State of Maharashtra⁷. For ready reference, para 18 of the said judgment is reproduced as under:-

"18 In the case reported in 2012 (9) SCC 791: Raghuvansh Dewanchand Bhasin Vs. State of Maharashtra, while considering the ambit and scope of Article 21 and its violation, and court's right to payment compensation, their lordships held as under:-

17 It is trite principle of law that in matters involving infringement or deprivation of a fundamental right; abuse of process of law, harassment etc., the courts have ample power to award adequate compensation to an aggrieved person not only to remedy the wrong done to him but also to serve as a deterrent for the wrongdoer.

18 In Rudul Sah Vs. State of Bihar, Y.V. Chandrachud, CJ, speaking for a Bench of three learned Judges of this Court had observed thus: (SCC p. 147, para 10)

⁷ (2012) 9 SCC 791

"10. ...One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt."

19 In Bhim Singh, MLA Vs. State of J & K, holding illegal detention in police custody of the petitioner Bhim Singh to be violative of his rights under Articles 21 and 22(2) of the Constitution, this Court, in exercise of its power to award compensation under Article 32, directed the State to pay monetary compensation to the petitioner. Relying on Rudal Sah , O. Chinnappa Reddy, J. echoed the following views: (SCC p.686, para 2)

"2. ... When a person comes to us with the complaint that he has been arrested and imprisoned with mischievous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free. In appropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation..."

20. In Nilabati Behera (Smt) Alias Lalita Behera Vs. State of Orissa, clearing the doubt and indicating the precise nature of the constitutional remedy under Articles 32 and 226 of the Constitution to award compensation for contravention of fundamental rights, which had arisen because of the observation that "the petitioner could have been relegated to the ordinary remedy of a suit if his claim to compensation was factually controversial" in Rudul Sah (SCC p. 147, para 10), J.S. Verma, J. (as His Lordship then was) stated as under: (Nilabati Behera case, SCC pp. 762-63, para 17)

"17 It follows that 'a claim in public law for compensation' for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is 'distinct from, and in addition to, the remedy in private law for damages for the tort' resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of

fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Articles 32 and 226 of the Constitution. This is what was indicated in Rudul Sah and is the basis of the subsequent decisions in which compensation was awarded under Articles 32 and 226 of the Constitution, for contravention of fundamental rights."

(emphasis supplied)

21. In the same decision, in his concurring judgment, Dr. A.S. Anand, J. (as His Lordship then was), explaining the scope and purpose of public law proceedings and private law proceedings stated as under: (Nilabati Behera case, SCC pp. 768-69, para 34)

"34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting "compensation" in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law." (emphasis supplied)

22. The power and jurisdiction of this Court and the High Courts to grant monetary compensation in exercise of its jurisdiction respectively under Articles 32 and 226 of the Constitution of India to a victim whose fundamental rights under Article 21 of the Constitution are violated are thus, well-established. However, the question now is whether on facts in hand, the appellant is entitled to monetary compensation in addition to what has already been awarded to him by the High Court. Having considered the case in the light of the fact- situation stated above, we are of the opinion that the appellant does not deserve further monetary compensation."

25. The Division Bench has also considered the judgment passed by the Apex Court in Salem Advocate Bar Association (II) v. Union of India⁸. Eventually, the Division Bench in Neetu Devi (Supra) has accorded indulgence in favour of claimant-petitioner (in the said writ petition).

26. This Court in the case of U.P. State Electricity Board vs. District Magistrate, Dehradun⁹, has also considered the issue that electricity falls within the definition of "hazardous substance" and the accident, caused on account of it, is covered under the provisions of the Act, 1991. Relevant extract of the judgment, as contained in paragraphs 42 to 44, is being quoted below:

"42. Hence in my opinion 'hazardous substance' as defined in Section 2 (d) of the 1991 Act is not to be confined to a substance specified in the notification issued by the Central Government, but it includes all substances which come under the definition of 'hazardous substance' under the Environment (Protection) Act, 1986, with this exception that if any such substance is also notified by the Central Government under Section 2 (d) of the 1991 Act then it will be a 'hazardous substance' only if it exceeds the quantity specified in the said notification. Thus the notification issued by the Central Government under Section 2 (d) of the 1991 Act can only narrow down the scope of 'hazardous substance' as defined under the Environment (Protection) Act, 1986, but substances which are not specified in the said notification will nevertheless be regarded as 'hazardous substances' under the 1991 Act if they come within the

8 (2005) 6 SCC 344

9 1997 UPLBEC (2) 1344

definition of 'hazardous substances' under the Environment (Protection) Act, 1986.

43. I have already stated above that electricity is "hazardous substance" as defined under the Environment (Protection) Act, 1986 and hence I reject the submission of the learned counsel for the petitioners that it is not a hazardous substance since it has not been included in the Notification dated 24-3-1992.

44. THE principle of strict Liability Section 3 (2) of the 1991 Act places a strict liability (liability without fault) in cases of such accident due to 'hazardous substances' and it is not necessary for the claimant to plead that the death or injury was caused by wrong or negligent act of any person....."

27. Hon'ble Supreme Court in *M.P. Electricity Board v. Shail Kumari*¹⁰ has held that the Electricity Board is liable to pay compensation even though there was no negligence on its part. In *Parvati Devi & Ors. v. Commissioner of Police, Delhi & Ors.*¹¹, the Supreme Court observed that once it is established that the death occurred on account of electrocution while walking on the road, necessarily the authorities concerned must be held to be negligent and the legal heirs of the deceased are entitled for compensation.

28. In *M.C. Mehta v. Union of India*¹², Hon'ble Supreme Court has held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm is caused on any one on account of the accident in the operation of such activity, the enterprise is strictly and absolutely liable to compensate those who are affected by the accident.

¹⁰ (2002) 2 SCC 162

¹¹ (2000) 3 SCC 754

¹² (1987) 1 SCC 395

CONCLUSION

29. We find that the issue in hand is no more res integra. In the light of the above cited judgments, we find that the quintessence is that the compensation has rightly been accorded under the Act, 1991. It is writ large that the petitioner had set up the claim under the Act, 1991 on the ground that he had received grievous injury and during treatment he has incurred expenses of more than Rs.4 lacs towards medical costs and other expenses. We find that under the present facts and circumstances the order impugned is required to be modified qua the amount of compensation. As a stay order was operating in the connected writ petition, therefore, the amount quantified by the District Magistrate was never paid to the petitioner. The petitioner has been deprived of the compensation amount, which he is legally entitled to receive.

30. The stay order was granted on the ground of jurisdiction of the District Magistrate to pass the order. However, as observed above, the District Magistrate has the jurisdiction to pass an order under the Act. Therefore, the ground of jurisdiction is unsustainable. The incident is of the year 2006 and the order of compensation was passed in the year 2010. Ordinarily, the deprivation of the compensation amount would require granting of damages and interest to the petitioner as despite an award for grant of compensation, no amount came to be given for a period of 16 years. Therefore, in the interest of justice and to balance the equities, we deem it appropriate that a further sum of Rs.5,00,000/- be quantified over and above to what has

been awarded as medical expenses and enhanced compensation to be awarded to the petitioner.

ORDER AND DIRECTIONS

31. We accordingly modify the order impugned to the extent that the petitioner is entitled for compensation of Rs.9,00,000/- in total (Rs.5,00,000/- as enhanced compensation and Rs.4,00,000/- as medical expenses). The Corporation/Nigam is directed to disburse the aforesaid amount to the claimant-petitioner within four weeks, failing which the claimant-petitioner will be entitled for 9% interest over the said amount towards delayed payment from the date of impugned order

32. In view of above, WRIT - C No. - 61435 of 2010 stands **allowed** and Writ - C No. 51093 of 2010 stands **dismissed**.

(Kunal Ravi Singh,J.) ((Mahesh Chandra Tripathi,J.))

April 20, 2026

SP/