

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.94 of 2015

Date of decision: 06.10.2015

Dakshin Haryana Bijli Vitran Nigam and others

....Petitioners

Versus

Mahender and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Pardeep Singh Poonia, Advocate
for the petitioners.

Mr. Radhey Sham Sarup, Advocate
for the respondents.

RITU BAHRI J. (Oral)

The present revision petition has been filed against the order dated 05.05.2014 (Annexure P-4), passed by District Judge, Fatehabad, whereby the appeal filed by the petitioners was dismissed, being barred by limitation on the ground that requisite court fee has not been deposited.

Vide order dated 18.04.2013 (Annexure P-1), passed by Additional Civil Judge (Sr. Division) Ratia, the suit of the petitioners had been decreed, wherein the respondents-plaintiffs have been awarded damages to the tune of Rs.4,52,000/- on account of death of Lakhbir @ Lakhwinder, aged 17 years.

Lakhbir @ Lakhwinder had died due to electrocution on

05.05.2011, while he took the bath in Sukhchain Canal. The wire of the electric line having the current of 11000 voltage were in a very loose condition and also were hanging very low lever and down position towards the earth and not properly maintained.

A perusal of the judgment (Annexure P-1) shows that the PMR Report (Ex.P-1) coupled with the examination of Dr. Sunil Kumar/PW-3, is sufficient to prove that the cause of death of Lakhbir @ Lakhwinder was due to electric current.

While decreeing the suit, a reference has been made to the judgment in the case **K.T. Thomas, 2002 (1) RCR (Criminal) 433 (SC)**, where it has been held that 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 compensation has been assessed in view of the judgment of “**Smt. Sarla Verma vs. Delhi Transport Corporation**” (SC) 2009 AIR 3104. The deceased was 16-17 years of age and was a bachelor and had two dependents. By assuming him to be a mere labourer, his average income has been assessed as Rs.4,000/-, out of which 50% amount was deducted in respect of personal expenses, which comes to Rs.24,000/- The multiplier of 18 was applied and in this manner, the amount of compensation comes to Rs.4,32,000/-. A sum of Rs.10,000/- was allowed in respect of funeral expenses and

Rs.10,000/- was also awarded in respect of loss of consortium. So, in this manner, the total amount of compensation comes to Rs.4,52,000/-.

Feeling dis-satisfied with the judgment dated 18.04.2013, passed by Additional Civil Judge (Sr. Division), Ratia, the petitioner-defendants chose to file an appeal, which was barred by limitation of 41 days.

A further perusal of the judgment (Annexure P-1) shows that the Department has not disputed the cause of death of deceased-Lakhbir @ Lakhwinder.

Learned counsel for the appellant has informed that the amount assessed by the trial Court has since been deposited before the Executing Court.

So, keeping in view the fact that the cause of death of deceased-Lakhbir @ Lakhwinder, is not in dispute and the assessed amount has since been deposited, the present revision petition is dismissed.

(RITU BAHRI)
JUDGE

06.10.2015
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