

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

CWP No. 4847 of 2012 (O&M)
Date of decision: January 9, 2015

Parminderjit Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. SS Salar, Advocate,
for the petitioner.

Mr. Ranbir Singh Pathania, Deputy Advocate General,
Punjab.

Mr. Kumar Vishav Aggarwal, Advocate,
for respondent No.2.

K. KANNAN, J. (Oral)

1. The petitioner is the widow of an engineer working in Irrigation Department. According to the petitioner, when he was standing along with his friend outside his office in a place that fell within the Municipal Council limits of Kharar, a stray animal hit him from the back and caused him grievous injuries. He was taken to the hospital where he was declared dead. At the time of admission in the hospital, it was stated that he was alleged to have been hit by a bull on 11.2.2009 at 9.30 a.m. and the post-mortem had found grievous injuries on the head as the cause for his death. The report of death, as was entered in the police station in the Form No. 25.35 (Annexure P/7) also reveals that the death had been resultant to

the injuries caused by a stray animal. The petitioner claim for compensation against the respondents that includes the Municipal Council i.e. 2nd respondent rested on the plea that the Punjab Municipal Act, 1911 vests the streets with the Municipal Council under Section 169 and Section 182 makes it an offence for any person to picket animals on the street. Section 182 (2) is relevant and it is re-produced as under:-

“182. Picketing animals and collecting carts:- (1)

(2) Any animal found picketed, tethered or straying on any public street without the permission of the committee may be removed to a pound by any officer or servant of the committee or by a police officer.”

The contention is that the Municipal Council owes a duty of care to any member of the public using the street that it is safe for such user and if an animal had been allowed to stray, it ought to have been removed to a pound in the manner contemplated in the above provision. It was on account of negligent conduct of duties of the Municipal Council that the accident had arisen and the petitioner would contend that the case presented results in a *res ipsa loquitur* situation when the liability has to be fastened on the municipal council on strict basis and compensation assessed.

2. The counsel appearing on behalf of respondent No.2 has denied that the fact that the death was on account of the injuries caused by a stray animal. According to the respondent, it involves a disputed question of fact and therefore, the writ petition cannot be entertained.

3. The dispute of whether the person died by the injuries caused by the animal is easily answered by reference to the medical certificate, which is filed along with the petition that reveals that he had died by the

injuries caused on account of head injuries. The immediate cause for the death has been brain stem death and the nature of injuries are said to be tentorial herninory and bifrontal contusion. The report of unnatural death as entered in the police record and when a pancha has been drawn up it also refers to the fact that the death was caused by a stray animal. The entry at the emergency wing of PGIMER on 11.2.2009 states that the petitioner had brought a 38 years old male as “alleged to have been hit by a bull on 11.2.2009 at 9.30 a.m.” When the medical and police records refer to the involvement of stray bull for causing injuries to the petitioner's husband, I will find no reason to suspect such a version. If the dispute exists by the reply, I find that to be quelled by overwhelming documentary evidence produced that would require no further oral examination for proof of the assertion of the facts made.

4. The counsel appearing on behalf of the respondent No.2 would make a faint plea that the actual place where the accident took place has not been proved, for, it could be outside the municipal limits in which case the Municipal Council could not be responsible. This statement is without any basis and no such specific contention has been taken in the reply. A raging bull on the public streets is a nuisance and if it had not been tethered and left unattended, the municipal council owes a duty of care to any member using the street to have it removed to a pound and if it is not done, it must face the consequences for the death. The deceased was an engineering earning Rs. 16,000/- per month and, in my view, the appropriate compensation would be Rs. 10,00,000/- (Rs. Ten lacs) payable by the 2nd respondent. The said sum shall also carry interest @ 9% from the date of the filing of the petition till the date of payment. The payment shall be

made within eight weeks from the date of receipt of a copy of the order. I have assessed the quantum with insufficient details of his financial status, the extent of dependency and the contribution to the family will be open to the petitioner to seek for redressal by an independent suit, if she is so advised for any sum in excess of what is assessed by this court. If such a suit were to be filed within a period of limitation, institution of the writ petition before this court and adjudication made will not come in the way except that the amount now provided for will be given credit.

5. The petition is allowed on the above terms.

January 9, 2015
prem

(K.KANNAN)
JUDGE