

CWP-2648-2014

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

CWP-2648-2014

Date of Decision: 19.10.2015

Jagir Singh and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

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

Present: Mr. B.S.Dhillon, Advocate,
for the petitioners.

Mr. Rajneesh Chadwal, DAG, Haryana.
For respondent Nos.1 and 2.

Ms. J.K.Dhaliwal, Advocate,
for respondent Nos.3 to 5.

Paramjeet Singh, J.

The unfortunate parents and an unmarried sister have approached this court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to pay compensation to the petitioners who have lost their 18 years old son Balbir Singh alias Gulab (deceased), student of 10+2 class, a helping hand in the agricultural works for the family and a bread earner. While working in his fields on 16/06/2013, he suddenly came in contact with a live supporting stay wire (guy wire) of 11 KVA electric

CWP-2648-2014

pole standing near the tube-well room in his fields and died at the spot due to electrocution. Immediately, he was taken to Saraswati Mission Hospital, Pehowa for treatment, but doctor declared him brought dead. A DDR No. 19 dated 16.06.2013 (Annexure P-1) was lodged with the police at police post Karah Sahib and post-mortem (Annexure P-2) of the dead body was conducted on 17/6/2013. The doctor opined cause of death as under:

“Opinion: in my opinion the cause of death in this case is electrical injury which is ante mortem in nature and sufficient to cause death in ordinary course of events.

Probable time that elapsed

a) Between injury and death-within minutes

b) Between death and PME-within 24 hours.

The averments in the writ petition are to the effect that deceased died due to the negligence of respondent Nos.3 to 5 as the respondents did not take care to maintain electric installations, did not put any bad conductor at the time of installing the pole and guy wire in the Earth so that current may not travel in the guy wire. Compensation is claimed from the State respondent No. 1, District Collector respondent No.2 and respondent Nos.3 to 5 responsible authorities of electricity board (hereinafter to be referred as Corporation) as deceased died due to the negligence and carelessness of the Corporation having failed to take safety measure to avoid flow of current in the guy wire. During the pendency of the writ petition, the petitioners have placed on record matriculation certificate (Annexure P-7) which shows that the deceased

CWP-2648-2014

passed matriculation examination with 72.6% marks meaning thereby he was a bright student although having rural background. In the said application the averments are to the effect that as per Haryana Government policy, deceased would have come within the category of highly skilled worker and at that point of time minimum wages fixed for such worker were ₹5862/- per month and compensation assessed at that income comes to worth ₹18,66,192/-.

The Corporation did not pay any compensation or financial assistance to the petitioners' family, in spite of service of legal notice dated 31/07/2013 (Annexure P-3). When all the persuasions of the petitioners to pay any compensation ended in a fiasco, they have approached this court for compensation by way of instant writ petition.

Pursuant to notice of motion, separate written statements have been filed by respondent No. 2 and respondent Nos. 3 to 5. Though the incident has been admitted, but a stand has been taken that the Corporation had no role to play. The sum and substance of the stand of respondent nos.3 to 5, and 2 is that they had taken all precautionary steps to avoid any accident to any person or animal. At that time, Mr. Tara Chand, Assistant Foreman, of the area of UHBVN was working in Government School, Ishaq, for installing transformer on 11 KVA, RDS, Ishaq feeder vide PTW No. 25 dated 16/06/2013. At about 1.00 PM, the farmers came to him and told that an electric accident has occurred in which Balbir Singh son of Jagir Singh has suffered electric shock. Mr. Dalip Singh, Lineman, who was working with Mr. Tara Chand, Assistant

CWP-2648-2014

Foreman at that time informed about the fatal accident to Mr. Prince Bura, then SDO (Operation). At that point of time Mr Tara Chand did not think it appropriate to visit the spot as the public was in violent mood and there was apprehension that they would take law in their own hands and would physically harm the said employees. Mr. Tara Singh checked the complaint register and in the register, there was no complaint regarding the guy wire of the pole in question on behalf of anyone. Mr. Tara Singh came to know that deceased was rooting out the guy wire as the same was creating hindrance in ploughing of the field by tractor. The deceased had dug a pit around the guy wire and then it became loose due to which accident occurred. On 17.06.2013, Mr. Prince Bura, then SDO (Op), along with other officials, namely Sukhjinder Sharma SSA, Mr Surta Ram Lineman, Mr. Dalip Singh, Lineman and Mr. Tara Chand, Assistant Forman, visited the spot and found that there was a fresh pit for uprooting the guy wire and fresh earth was filled to cover the said pit after the accident. The relatives and brothers of Jagir Singh who were standing there told the officials that when deceased was digging the pit, he touched the guy wire which became loose and pulled the deceased. The transformer from which LT line was coming was perfectly maintained and there was also a gang operative switch installed on the said pole on which transformer was installed. If it would have been switched off then accident would have been avoided. The accident took place due to the negligence of the deceased; respondents are not responsible for negligence and accident. The post-mortem has not been

CWP-2648-2014

conducted in the presence of the official(s) of the respondent-Corporation. There is no 11 KV electric pole at the spot. There is only low tension voltage i.e 415 voltage at the spot. The department never received any complaint regarding the looseness of the guy wire. A gang operative switch was installed on the edge poll as a precautionary measure. If that would have been switched off then accident would not have occurred. The electricity had been supplied to the consumers of that area through insulated cable. Thus, the respondents were not negligent in any manner.

I have heard the learned counsel for the parties and perused the material on record.

Learned counsel for the petitioners vehemently contended that immediately after the accident, Jagir Singh father of the deceased lodged a DDR with the police authorities and the villagers informed the officials of the Department about the accident. The death of Balbir Singh deceased is due to electrocution. It is an admitted case that a tubewell is installed in the fields of petitioner No. 1 and the deceased was his son and student of 10+2 class. It is the duty of the UHBVN to have safety system in place when guy wire is attached to electric Pole for providing support. There must be an automatic tripping device. The principle of *res ipsa loquitur* applies to the present case. Since there was no proper safety system and the electric current has traveled in the guy wire due to the negligence of respondent-corporation, the respondent-Corporation cannot evade its liability to pay compensation. The deceased was 18

CWP-2648-2014

years of age, student of 10+2 and had passed the 10th class with 72.6% marks and was a helping hand to the father in his agricultural works. He would have earned at least ₹6000/- per month at that point of time which would have further increased to about ₹9000/- per month and he would have contributed ₹6000/- per month to the family. The multiplier of 18 should be adopted and as a result of it the dependency itself would be ₹12,66,192/-. There is a loss of love and affection and consortium for the father, mother and unmarried sister. The income of the deceased should be assumed. The Learned counsel for the petitioners also referred to table given in CM no. 13650 Of 2015, on the basis of which the compensation to the tune of Rs 18,66,192/ has been calculated.

Per contra, learned State counsel and learned counsel for respondent Nos.3 to 5 vehemently contended that there is no negligence on the part of Corporation. The deceased was digging a pit to root out the supporting stay wire which became loose and deceased himself was responsible for the death. It is also contended that writ petition is not maintainable for assessing the compensation, the petitioners should have availed the remedy of civil suit for this purpose. In support of his contentions, learned counsel for the respondent-corporation cited ***Tamil Nadu Electricity Board vs. Sumathi and others*** (2000) 4 Supreme Court Cases 543 and ***SDO, Grid Corporation of Orissa Ltd., vs. Timudu Oram*** (2005) 6 Supreme Court Cases 156.

I have given my anxious thoughtful consideration to the rival pleadings of the parties and contentions advanced by the learned

CWP-2648-2014

counsel for the parties. The following questions of law arise for consideration:-

- 1) *Whether a writ petition under Article 226 of the Constitution of India is maintainable for payment of compensation in case of death due to electrocution?*
- 2) *Whether petitioners are entitled to compensation, if so, how much ?*

In Re Question No.1:

The Constitution of India is the living document and basic law of the Nation. The perusal of its preamble reveals that it stands for securing justice to all the citizens. Bundle of rights including natural rights or basic human rights, fundamental rights, other constitutional and statutory rights are subject to the constitutional provisions. Identification and protection of the rights, especially that of the poor and disadvantaged section of the society, is the chief concern of High Courts and Supreme Court. Identification and recognition of one's grievances has direct co-relation to his rights flowing from the Constitution of India. The Constitution guarantees fundamental rights as mentioned in Part III. It guarantees constitutional remedies in case of infringement of fundamental rights. The Constitution is fundamental in implementation of rights and makes the judicial role pivotal to constitutional functionalism. The social Justice principle enshrined in the Constitution warrants liberal judicial review and judicial activism is essential for imparting public Justice.

The language of Article 226 of the Constitution does not

CWP-2648-2014

admit of any limitation on the powers of the High Court for the exercise of jurisdiction thereunder. The power conferred upon the High Courts under Article 226 of the Constitution is wide enough to reach injustice wherever it is found. The Hon'ble Supreme Court in catena of the decisions has laid down certain guidelines and self-imposed limitations subject to which the High Courts would exercise writ jurisdiction. Those guidelines cannot be mandatory in all circumstances. When a citizen approaches the High Court in writ petition with a grievance that a wrong is caused, the High Court will step in to protect him, whether that wrong was done by the State or an instrumentality of the State. In such cases, the High Court cannot close its doors.

In view of the constitutional provisions, I proceed to examine the contention of the learned counsel for the Corporation. The learned counsel for the respondent- Corporation has placed reliance on the judgments of the Hon'ble Supreme Court in *Sumathi (Supra)* and *Timudu Oram (supra)* and vehemently opposed the maintainability of the writ petition on the ground that public law remedy under Article 226 of the Constitution of India, cannot be availed for awarding of compensation and the petitioners should be relegated to the ordinary remedy of civil suit. I am not inclined to accept the said contention in view of the catena of decisions of the Hon'ble Supreme Court and various High Courts. Some of the celebrated judgments are being referred to below :

CWP-2648-2014

The Honble Supreme Court in the case of ***State of Rajasthan Vs. Vidhyawati*** 1962 Supp (2) SCR 989, held as under:

"15.....Viewing the case from the point of view of first principles, there should be no difficulty in holding that the State should be as much liable for tort in respect of a tortious act committed by its servant within the scope of his employment and functioning as such as any other employer. The immunity of the Crown in the United Kingdom, was based on the old feudalistic notions of justice, namely, that the King was incapable of doing a wrong, and, therefore, of authorising or instigating one, and that he could not be sued in his own courts. In India, ever since the time of the East India Company, the sovereign has been held liable to be sued in tort or in contract, and the Common Law immunity never operated in India....."

This Court in the case of ***Joginder Kaur vs. The Punjab State and others*** 1969 ACJ 28 observed as under :

"10. In the matter of liability of the State for the torts committed by its employees, it is now the settled law that the State is liable for tortuous acts committed by its employees in the course of their employment....."

The Hon'ble Supreme Court in the case of ***M.C. Mehta v. Union of India*** A.I.R. 1987 S.C. 1086, dealing with a writ petition filed for closure of certain units, observed that when violation of fundamental right is brought to the notice of the Court, then hyper technical approach which would defeat the ends of justice should be avoided rather

CWP-2648-2014

approach should be to meet the ends of justice. The Hon'ble Supreme Court observed as follows:

"2. *These applications for compensation are for enforcement of the fundamental right to life enshrined in Art 21 of the Constitution and while dealing with such applications, we cannot adopt a hyper-technical approach which would defeat the ends of justice. This Court has on numerous occasions pointed out that where there is a violation of a fundamental or other legal right of a person or class of persons who by reason of poverty or disability or socially or economically disadvantaged position cannot approach a Court of law for justice, it would be open to any public spirited individual or social action group to bring an action for vindication of the fundamental or other legal right of such individual or class of individuals and this can be done not only by filing a regular writ petition but also by addressing a letter to the Court. If the Court is prepared to accept a letter complaining of violation of the fundamental right of an individual or a class of individuals who cannot approach the Court for Justice, there is no reason why the applications for compensation which have been made for enforcement of the fundamental right of the persons affected by the oleum gas leak under Art. 21 should not be entertained. The Court while dealing with an application for enforcement of a fundamental right must look at the substance and not the form.*

In ***Nilabati Behera v. State of Orissa***, (1993) 2 SCC 746, the Hon'ble Supreme Court extensively considered the powers of the Court

CWP-2648-2014

to grant compensation for deprivation of fundamental right and held as follows:

“10. In Rudul Sah (supra), it was held that in a petition under Article 32 of the Constitution, this Court can grant compensation for deprivation of a fundamental right. That was a case of violation of the petitioner's right to personal liberty under Article 21 of the Constitution. Chandrachud, CJ., dealing with this aspect, stated as under: "It is true that Article 32 cannot be used as a substitute for the enforcement of rights and obligations which can be enforced efficaciously through the ordinary processes of courts, civil and criminal. A money claim has therefore to be agitated in and adjudicated upon in a suit instituted in a court of lowest grade competent to try it. But the important question for our consideration is whether in the exercise of its jurisdiction under Article 32, this Court can pass an order for the payment of money if such an order is in the nature of compensation consequential upon the deprivation of a fundamental right. The instant case is illustrative of such cases"

.....The petitioner could have been relegated to the ordinary remedy of a suit if his claim to compensation was factually controversial, in the sense that a civil court may or may not have upheld his claim. But we have no doubt that if the petitioner files a suit to recover damages for his illegal detention, a decree for damages would have to be passed in that suit, though it is not possible to predicate, in the absence of evidence, the precise amount which

would be decreed in his favour. In these circumstances, the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders to release from illegal detention. 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. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilisation is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

CWP-2648-2014

A reference to the decision of Privy Council in ***Maharaj v. Attorney-General of Trinidad and Tobago*** (No. 2) [(1978) 2 All.ER 670] would also be useful. This case relates to Section 6 of the Constitution of Trinidad and Tobago 1962, in the Chapter pertaining to human rights and fundamental freedoms, wherein Section 6 provided for an application to the High Court for redress. The question was, whether the provision permitted an order for monetary compensation. The contention of the Attorney General therein, that an order for payment of compensation did not amount to the enforcement of the rights that had been contravened, was expressly rejected. It was held, that an order for payment of compensation, when a right protected had been contravened, is clearly a form of 'redress' which a person is entitled to claim under Section 6, and may well be 'the only practicable form of redress'.

In the case of ***M.S. Grewal v. Deep Chand Sood*** (2001) 8 SCC 151, the Hon'ble Supreme Court observed as under :

“26. Next is the issue of “maintainability of the writ petition” before the High Court under Article 226 of the Constitution. The appellants though initially very strongly contended that while the negligence aspect has been dealt with under penal laws already, the claim for compensation cannot but be left to be adjudicated by the civil laws and thus the Civil Court’s jurisdiction ought to have been invoked rather than by way of a writ petition under Article 226 of the Constitution. This plea of non-maintainability of the writ petition though advanced at the initial stage of the submissions but

*subsequently the same was not pressed and as such we need not detain ourselves on that score, excepting however recording that the law Courts exist for the society and they have an obligation to meet the social aspirations of citizens since law Courts must also respond to the needs of the people. In this context, reference may be made to two decisions of this Court. The first in line is the decision in **Nilabati Behera (Smt.) alias Lalita Behera (through the Supreme Court Legal Aid Committee) vs. State of Orissa and others, 1994(1) R.C.R.(Criminal) 18: 1993 (2) SCC 746**, wherein this Court relying upon the decision in **(Rudal Sah v. State of Bihar & Anr., 1983 (4) SCC 141)** decried the illegality and impropriety in awarding compensation in a proceeding in which the Court's power under Articles 32 and 226 of the Constitution stands involved and thus observed that it was a clear case for award of compensation to the petitioner for custodial death of her son. It is undoubtedly true, however, that in the present context, there is no infringement of the State's obligation, unless of course the State can also be termed to be joint tortfeasor, but since the case of the parties stands restricted and without imparting any liability on the State, we do not deem it expedient to deal with the issue any further except noting the two decisions of this Court as above and without expression of any opinion in regard thereto."*

The Madhya Pradesh High Court in the case of **Ramesh Singh Pawar v. Madhya Pradesh Electricity Board and others**, AIR 2005 (M.P) 2 has held as follows:

“28. *Currently judicial attitude has taken a shift from the old draconian concept and the traditional jurisprudential system. Affection of the people has been taken note of rather seriously and the judicial concern thus stands on a footing to provide expeditious relief to an individual when needed rather than taking recourse to the old conservative doctrine of the Civil Court’s obligation to award damages. As a matter of fact the decision in D.K. Basu has not only dealt with the issue in a manner apposite to the social need of the “Country but the learned Judge with his usual felicity of expression firmly established the current trend of justice-oriented approach”. Law Courts will lose their efficacy if they cannot possibly respond to the need of the society – technicalities their might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice.*”

In the case of ***N. Nagendra Rao & Company Vs. State of A.P.*** AIR 1994 (SC) 2663, the Hon'ble Supreme Court held the State of Andhra Pradesh liable for the loss caused to the appellant by the negligent exercise of powers by the State officials under the Essential Commodities Act, 1955. The court observed that no civilised system could permit an executive to play with the people of a country and claim to be sovereign. To place the State above the law is unjust and unfair to the citizen. In the modern sense the distinction between sovereign and non-sovereign functions does not exist. The ratio of law laid down in

CWP-2648-2014

M/s. Kasturi Lal Ralia Ram Jain vs. State of U.P., AIR 1965 Supreme Court 1039 is available to those rare and limited cases where the statutory authority acts as a delegate of such functions for which it cannot be sued in a court of law.

The distinction between public and private law and the remedies under the two has been emphasized by the Hon'ble Supreme Court in the case of ***Common Cause, A Registered Society Vs. Union of India & Ors.*** (1999)1 SCC 490, and ***The Chairman, Railway Board & ors Vs. Mrs. Chandrima Das and ors.***, AIR 1999 SC 2979. It was held as under:

"Where public functionaries are involved and the matter relates to the violation of fundamental rights or the enforcement of public duties, the remedy would still be available under the public law notwithstanding that a suit could be filed for damages under private law."

The question of tortious liability of the State and its instrumentalities has raised many interesting debates in judicial arena. There is no legislation to fix the liability of the State and its instrumentalities for the torts committed by its servants. The trend of Constitutional Courts is to make applicable public law torts which requires different considerations than the private law torts and is more suitable for fixing liability of State and its instrumentalities in torts. Article 300 of the Constitution of India enumerates the liabilities of Union and States in tortious act of the government. To place the State

CWP-2648-2014

and its instrumentalities above law would be unjust and unfair to the citizens of the country.

An evaluation of decisions of the Hon'ble Supreme Court and the Hon'ble High Courts is an indicator of development of concept of constitutional tort and compensatory jurisprudence.

It would be worth to mention that the Hon'ble Supreme Court in *N.Nagendra Rao Company (supra)* noted the recommendations of the Law Commission First Report for statutory recognition of the liability of the State as had been done in England through the Crown Proceedings Act, 1947 and in the USA through the Federal Torts Claims Act, 1946. It is unfortunate that the recommendations of the Law Commission made long back in 1956 and the suggestions made by the Supreme Court, have not yet been given effect. The unsatisfactory state of affairs in this regard is against social justice in a welfare State. In consonance with principle of social justice enshrined in preamble of the Constitution and concept of welfare State, legislation determining liability of the State and its instrumentalities, is a necessity.

The Hon'ble Supreme court in the Case of *M.C. Mehta's case (supra)*, evolved a new principle of Absolute Liability and observed as under:

“31.....We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting,

CWP-2648-2014

for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability under the rule in Rylands v. Fletcher.”

Thus, I hold that a writ petition for payment of compensation for the death of a person in electrocution is maintainable when the undisputed facts clearly reveal the same.

In Re Question No. 2

Now I proceed to examine the first part of this question i.e. whether the petitioners are entitled to compensation. The respondent – corporation is indulging in transmission of electricity activities which in absence of safety measures may be dangerous to person and property of others. The law allows it to be carried on for the sake of social utility but only in accordance with the statutory provisions i.e Indian Electricity Act, 2003 and the Rules framed thereunder laying down safety measures and providing further sanctions for non-compliance. It would be appropriate to reproduce relevant provisions. Sections 53 and 161 of the Indian Electricity Act, 2003 reads as under:

“Section 53. Provision relating to safety and electricity supply.- The Authority may, in consultation with the State Government, specify suitable measures for--

(a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution

or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;

(b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;

(c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified;

(d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;

(e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;

(f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;

(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

161. Notice of accidents and inquiries.- (1) *If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.*

(2) *The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report--*

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.

(3) *Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 Of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).*

CWP-2648-2014

The Indian Electricity Act, 2003, Rules and Regulations framed thereunder provide for adequate and proper safety measures. If the corporation is not adhering to the provisions of the Electricity Act, Rules and Regulations framed thereunder and there is resultant accident than it is certainly affecting the human rights/ right to life and is covered under Article 21 of the Constitution of India. In such cases compensation can be awarded under Article 226 of the Constitution applying the doctrine of strict liability. The corporation has to compensate for the damage caused, irrespective of any carelessness on its part. The basis of payment of compensation/damages is foreseeable risk inherent in the very nature of activities which Corporation undertakes. The principle of strict liability resembles negligence. But the difference lies between the two. The concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions which could be done for avoiding the harm but in cases of strict liability of the undertaking/ Corporation indulging in activities which are hazardous and risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, although there may not be any negligence or carelessness on the part of the officers/ officials of the corporation. The basis of such liability is the foreseeable risk inherent in the very nature of such activities. The liability cast on such person is known, in law, as “strict liability”.

The doctrine of strict liability has its origin in English Common Law. It was propounded in the celebrated case of **Rylands Vs.**

CWP-2648-2014

Fletcher, 1868 Law Reports (3) HL 330 :1861-73 All ER Rep.1.

Justice Blackburn had observed thus:

“The rule of law is that the person who, for his own purpose, brings on his land, and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and if he does not so, he is prima facie answerable for all the damage which is the natural consequence of its escape.”

However, following exceptions to **Rylands Vs Fletcher** have been recognized in some later cases:

i) Default of the claimant, ii) Consent of claimant, iii) Act of God, iv) Act of Third Party/stranger, iv) Statutory Authority.

One of the exceptions is that “Act of stranger” i.e. if the escape was caused by the unforeseeable act of a stranger, the rule does not apply. (Winfield on Tort, 15th Edn. Page 535). The rule of strict liability has been approved and followed in many subsequent decisions in England and numerous decisions of the Hon'ble Supreme Court to that effect. Constitution Benches of the Hon'ble Supreme Court in the cases of **Charan Lal Sahu v. Union of India**, AIR 1990 SC 1480 and **Gujarat State Road Transport Corpn. V. Ramanbhai Prabhatbhai**, AIR 1987 SC 1690 have followed with approval the principle laid down in **Rylands (supra)**. The same principle has been reiterated in **Kaushnuma Begum VS. New India Assurance Co. Ltd.**, AIR 2001 SC 485. The Hon'ble Supreme Court in the case of **Smt. Sukamani Das**

CWP-2648-2014

(Supra) and *Timudu Oram(Supra)* came to hold that since disputed questions of fact are involved, the writ petition is not maintainable, but the question of a strict liability was not taken into consideration in those cases. *Sukamani Dass (Supra)* and *Timudu Oram (supra)* cannot be understood as laying a law that in every case of tortious liability recourse to be followed is a civil suit. When there is negligence on the face of it and infringement of Article 21, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution, since right to life is one of the basic human rights guaranteed under Article 21 of the Constitution and denial of remedy under writ jurisdiction would amount to robbing Article 21 of its significant content. In the case of *Rudal Sah vs State of Bihar* AIR 1983 SC 1086, the Hon'ble Supreme court for the first time was faced with dilemma whether or not to award compensation for violation of right to life and personal liberty.

In the case of *M.P. Electricity Board Vs Shail Kumar and others*, AIR 2002 (SC) 551, one Jogendra Singh, a workman in a factory, was returning from his factory in late evening of 23.8.1997 riding on a bicycle. There was rain and hence the road was partially inundated with water. The cyclist did not notice the live wire on the road and hence he rode the vehicle over the wire which twitched and snatched him and he was instantaneously electrocuted. He fell down and died within minutes. When the action was brought by his widow and minor son, a plea was taken by the Board that one Hari Gaikwad had taken a wire from the main supply line in order to illegally use the energy for his own use and

CWP-2648-2014

the said act of pilferage was done clandestinely without even the notice of the Board and that the line got unfastened from the hook and it fell on the road and when cycle was driven over it by the deceased it slid resulting in the instantaneous electrocution. In paragraph 7, the Supreme Court held as follows:

“6.....It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human, being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy to his private property and that the electrocution was from such diverted line. It is the look out the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.”

The principle of *res ipsa loquitur* is well known. It is explained in a very illustrative passage in ***Clerk & Lindsell on Torts***, 16th Edn., pp. 568- 569, which reads as follows:

“Doctrine of res ipsa loquitur. The onus of proof,

which lies on a party alleging negligence is, as pointed out, that he should establish his case by a pre-ponderance of probabilities. This he will normally have to do by proving that the other party acted carelessly. Such evidence is not always forthcoming. It is possible, however, in certain cases for him to rely on the mere fact that something happened as affording prima facie evidence of want of due care on the other's part: 'res ipsa loquitur is a principle which helps him to do so'. In effect, therefore, reliance on it is a confession by the plaintiff that he has no affirmative evidence of negligence. The classic statement of the circumstances in which he is able to do so is by Erle, C.J.: 'There must be reasonable evidence of negligence. But where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendants, that the accident arose from want of care. It is no more than a rule of evidence and states no principle of law. "This convenient and succinct formula", said Morris, L.J., "possesses no magic qualities; nor has it any added virtue, other than that of brevity, merely because it is expressed in Latin". It is only a convenient label to apply to a set of circumstances in which a plaintiff proves a case so as to call for a rebuttal from the defendant, without having to allege and prove any specific act or omission on the part of the defendant. He merely

CWP-2648-2014

proves a result, not any particular act or omission producing the result. The court hears only the plaintiff's side of the story, and if this makes it more probable than not that the occurrence was caused by the negligence of the defendant, the doctrine res ipsa loquitur is said to apply, and the plaintiff will be entitled to succeed unless the defendant by evidence rebuts that probability. It is not necessary for res ipsa loquitur to be specifically pleaded."

Now coming to facts of this writ petition, the specific case of the petitioners is that their son (Balbir Singh) died due to electrocution on 16.06.2013 while working in his fields. Balbir Singh was electrocuted by coming in contact with live guy wire of the pole and died of electric shock. The post mortem report (Annexure P-2) reveals that cause of death of Balbir Singh was due to electrical injuries mentioned therein. The documents such as, DDR (Annexure P-1) and post mortem report prima facie reveal that death of Balbir Singh was due to electric shock. The doctor, who conducted the post-mortem, on the dead body of the deceased, has clearly noticed electric burn injuries and certified that the death was due to electrocution. Thus, there cannot be any dispute about the cause of death. The written statement of the corporation through its officials does not disclose that after the information of accident was given to the departmental officials any inquiry was conducted, at least, if there was any, the same has not been placed on record of this Court. It is also not pleaded that what type of safety measures had been taken at spot where accident has occurred i.e

CWP-2648-2014

near the tubewell room in the fields of petitioner no.1. Even there is no iota of averments in the written statement and any document annexed with it to indicate that the respondent Corporation had been making periodical inspections of installations with regard to safety measures. Moreover, there is no prima facie defence set up by the corporation that corporation or its officers/ officials have taken due care to protect the flow of current in the guy wire.

In the present case, factually there is no controversy with regard to the cause of death. Admittedly as per the postmortem report doctor has opined that death is due to electric injuries. There is no need for the petitioners to go before the Civil Court and establish the cause of the death or negligence. Certainly the death has not occurred due to the negligence of the deceased, on the contrary, indisputably, it occurred due to the current in guy wire. Thus, the accident in question had occurred resulting in death of the deceased as a result of electrocution. I have no hesitation to hold that the officials of the corporation were negligent in properly maintaining the electric wires. The corporation through its officers/officials has not adhered to proper safety measures and not installed the guy wire and guarding wire as per the rules occupying the field. It is a clear case of negligence, incompetent workmanship and supervision on the part of corporation and its officials which resulted in the untimely and sudden death of Balbir Singh Alias Gulab, 18 years old son, a brilliant 10+2 class student who was a helping hand in agriculture fields to the petitioners.

CWP-2648-2014

In view of the discussion above, I have come to a conclusion that petitioners are entitled to compensation.

Now I proceed to deal with the 2nd part of the question i.e. how much compensation petitioners are entitled to. A Division Bench of this court in the case of ***Paramjit Kaur and others versus State of Punjab and others***, AIR 2009 (Punjab) 27 has observed that for assessing amount of compensation principles as laid down in the Motor Vehicles Act be followed. The Hon'ble Supreme Court in case of ***Raman vs Uttar Haryana Bijli Vitran Nigam Ltd. and others*** 2015(1) RCR (Civil) 353 considering the various decisions has laid down guidelines for assessing and granting compensation in such like cases and held as under:

*“17. The learned Single Judge of the High Court has awarded compensation keeping all these aspects of the matter and has applied the guiding principle of multiplier method after adverting to the case of ***Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.***, 1999(1) R.C.R.(Civil) 288 : (2009) 6 SCC 121 for the purpose of computation of just and reasonable compensation in favour of the appellant which method should not have been applied to the case on hand, particularly, having regard to the statutory negligence on the part of the respondents in not providing the safety measures to see that live electric wires should not fall on the roof of the building by strictly following the Rules to protect the lives of the public in the residential area. This Court in the case of ***Dr. Balram Prasad v. Kunal Saha***, 2013 (4) R.C.R.(Civil) 946: 2013 (6) Recent Apex*

Judgments (R.A.J.) 165: (2014) 1 SCC 384, has deviated from following the multiplier method to award just and reasonable compensation in favour of the claimant in a medical negligence case. The same principle will hold good in the case on hand too. The following case law is followed by this Court in the above referred case, the relevant paragraphs are extracted herein to award just and reasonable compensation in favour of the appellant:

*68. three-Judge Bench decision of this Court in **Indian Medical Assn. v. V.P. Shantha**, wherein this Court has categorically disagreed on this specific point in another case wherein "medical negligence" was involved. In the said decision, it has been held at para 53 that to deny a legitimate claim or to restrict arbitrarily the size of an award would amount to substantial injustice to the claimant.*

99. In Govind Yadav v. New India Insurance Co. Ltd. this Court at para 15 observed as under which got reiterated at SCC pp. 639-40, para 13 of Ibrahim v. Raju:

*"15. In **Reshma Kumari v. Madan Mohan** 2009(3) R.C.R.(Civil) 908: 2009(4) Recent Apex Judgments (R.A.J) 664: (2009) 13 SCC 422, this Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below:*

26. The compensation which is required to be

determined must be just. While the claimants are required to be compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms.

27. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guesswork may be inevitable. That may be so.

XXX XXX XXX

46. In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of

*the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the multiplicand this Court in **Oriental Insurance Co. Ltd. v. Jashuben** held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration.*

47. One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect? Unfortunately, unlike other developed countries, in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration for determining the actual ground reality. No hard-and-fast rule, however, can be laid down therefor.'

101. he has also strongly placed reliance upon the observations made at para 170 in Malay Kumar Ganguly's case referred to supra wherein this Court has made observations as thus: (SCC p. 282)

"170. Indisputably, grant of compensation involving an accident is within the realm of law of torts. It is based on the principle of restitutio in integrum. The said principle provides that a person entitled to damages should, as nearly as possible, get that sum

CWP-2648-2014

*of money which would put him in the same position as he would have been if he had not sustained the wrong. (See **Livingstone v. Rawyards Coal Co.**)"*

103.1. In Ningamma's case, this Court has observed at para 34 which reads thus: (SCC p. 721)

"34.in our considered opinion a party should not be deprived from getting 'just compensation' in case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty-bound and entitled to award 'just compensation' irrespective of the fact whether any plea in that behalf was raised by the claimant or not."

*112. The claimant has also placed reliance upon **Nizam's Institute of Medical Sciences v. Prasanth S.Dhananka's 2009(3) R.C.R. (Criminal) 124: 2009 (3) R.C.R.(Civil) 174 : 2009(3) Recent Apex Judgments (R.A.J.) 634 : (2009) 2 SCC 688** case in support of his submission that if a case is made out, then the Court must not be chary of awarding adequate compensation. The relevant paragraph reads as under:*

"88. We must emphasise that the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. Sympathy for the victim does not, and should not,

come in the way of making a correct assessment, but if a case is made out, the court must not be chary of awarding adequate compensation. The 'adequate compensation' that we speak of, must to some extent, be a rule of thumb measure, and as a balance has to be struck, it would be difficult to satisfy all the parties concerned."

Further in para 119, it is heldthis Court has rejected the use of multiplier system to calculate and award the quantum of compensation which must be just and reasonable. The relevant paragraph is quoted hereunder: (SCC para 92)

"92. Mr Tandale, the learned counsel for the respondent has, further submitted that the proper method for determining compensation would be the multiplier method. We find absolutely no merit in this plea. The kind of damage that the complainant has suffered, the expenditure that he has incurred and is likely to incur in the future and the possibility that his rise in his chosen field would now be restricted, are matters which cannot be taken care of under the multiplier method." (emphasis supplied)

*Further under paragraph No. 121, the relevant paragraph from **United India Insurance Co. Ltd. v. Patricia Jean Mahajan** read as under: (SCC pp. 295-96, paras 20)*

"20. The court cannot be totally oblivious to the realities. The Second Schedule while prescribing the multiplier, had maximum income of ₹40,000 p.a. in mind, but it is considered to be a safe guide for applying the prescribed multiplier in cases of higher

income also but in cases where the gap in income is so wide as in the present case income is 2,26,297 dollars, in such a situation, it cannot be said that some deviation in the multiplier would be impermissible. Therefore, a deviation from applying the multiplier as provided in the Second Schedule may have to be made in this case. Apart from factors indicated earlier the amount of multiplicand also becomes a factor to be taken into account which in this case comes to 2,26,297 dollars, that is to say, an amount of around ₹68 lakhs per annum by converting it at the rate of ₹30. By Indian standards it is certainly a high amount. Therefore, for the purposes of fair compensation, a lesser multiplier can be applied to a heavy amount of multiplicand. A deviation would be reasonably permissible in the figure of multiplier even according to the observations made in Susamma Thomas where a specific example was given about a person dying at the age of 45 leaving no heirs being a bachelor except his parents." (emphasis supplied)

Further, in paragraph 177, it was held as under:-

"177. Under the heading of loss due to pain and suffering and loss of amenities of the wife of the claimant, Kemp and Kemp write as under:

*"The award to a plaintiff of damages under the head "pain and suffering" depends as Lord Scarman said in **Lim Poh Choo v. Camden and Islington Area health Authority**, "upon the claimant's personal awareness of pain, her capacity of suffering. Accordingly, no award is appropriate if and in so far*

as the claimant has not suffered and is not likely to suffer pain, and has not endured and is not likely to endure suffering, for example, because he was rendered immediately and permanently unconscious in the accident. By contrast, an award of damages in respect of loss of amenities is appropriate whenever there is in fact such a loss regardless of the claimant's awareness of the loss."

XXX XXX XXX

'Even though the claimant may die from his injuries shortly after the accident, the evidence may justify an award under this head. Shock should also be taken account of as an ingredient of pain and suffering and the claimant's particular circumstances may well be highly relevant to the extent of her suffering.'
By considering the nature of amenities lost and the injury and pain in the particular case, the court must assess the effect upon the particular claimant. In deciding the appropriate award of damages, an important consideration show long will he be deprived of those amenities and how long the pain and suffering has been and will be endured. If it is for the rest of his life the court will need to take into account in assessing damages the claimant's age and his expectation in life....." (emphasis supplied)

*18. Further, in the case of **Rekha Jain v. National Insurance Co. Ltd., 2013 (3) R.C.R.(Civil) 996 : 2013 (4) Recent Apex Judgments (R.A.J.) 644: (2013) 8 SCC 389**, this Court at paras 34 and 35, with regard to the quantum of damages, has held as under:*

"34.....In deciding on the quantum of damages to

be paid to a person for the personal injuries suffered by him, the Court is bound to ascertain all considerations which will make good to the sufferer of the injuries, as far as money can do, the loss which he has suffered as a natural consequence of the wrong done to him. [K. Narasimha Murthy vs. the Manager, Oriental Insurance Company Limited and Anr.. ILR 2004 KAR 2471]

35.....Therefore, the general principle which should govern the assessment of damages in personal injury cases is that the Court should award to injured person such a sum of money as will put him in the same position as he would have been in if he had not sustained the injuries. But, it is manifest that no award of money can possibly compensate an injured man and renew a shattered human frame."

39.....In *Mediana, in re* [1900 AC 113 (HL)], it is held at para 32 which is extracted as herein

'..... 32....In personal injury cases, the Court is constantly required to form an estimate of chances and risks which cannot be determined with precision. It is because, the law will disregard possibilities which are slight or chances which are nebulous; otherwise, all the circumstances of the situation must be taken into account, whether they relate to the future which the plaintiff would have enjoyed if the accident had not happened, or to the future of his injuries and his earning power after the accident. Damages are compensation for an injury or loss, that is to say, the full equivalent of money so far as the nature of money admits; and difficulty or uncertainty

does not prevent an assessment.' [**K. Narasimha Murthy vs. the Manager, Oriental Insurance Company Limited and Anr..** ILR 2004 KAR 2471]

In Fowler v. Grace, (1970) 114 Sol Jo 193 (CA)]
Edmund Davies, L.J., has said that:

"It is the manifest duty of the Tribunal to give as perfect a sum as was within its power'. There are many losses which cannot easily be expressed in terms of money. If a person, in an accident, loses his sight, hearing or smelling faculty or a limb, value of such deprivation cannot be assessed in terms of market value because there is no market value for the personal asset which has been lost in the accident, and there is no easy way of expressing its equivalent in terms of money."

41. McGregor on Damages (14th Edn.) at Para 1157, referring to the heads of damages in personal injury actions, states as under:

"The person physically injured may recover both for his pecuniary losses and his non-pecuniary losses. Of these the pecuniary losses themselves comprise two separate items viz. the loss of earnings and other gains which the plaintiff would have made had he not been injured and the medical and other expenses to which he is put as a result of the injury, and the courts have subdivided the non-pecuniary losses into three categories viz. pain and suffering, loss of amenities of life and loss of expectation of life.

Besides, the Court is well advised to remember that the measures of damages in all these cases 'should be such as to enable even a tortfeasor to say that he had

amply atoned for his misadventure.' The observation of Lord Devlin that the proper approach to the problem or to adopt a test as to what contemporary society would deem to be a fair sum, such as would allow the wrongdoer to 'hold up his head among his neighbours and say with their approval that he has done the fair thing', is quite apposite to be kept in mind by the Court in assessing compensation in personal injury cases." (emphasis supplied)

42. In **R. Venkatesh v. P. Saravanan**, the High Court of Karnataka while dealing with a personal injury case wherein the claimant sustained certain crushing injuries due to which his left lower limb was amputated, held that in terms of functional disability, the disability sustained by the claimant is total and 100% though only the claimant's left lower limb was amputated. In para 9 of the judgment, the Court held as under: (Kant LJ p. 415)

'9. As a result of the amputation, the claimant had been rendered a cripple. He requires the help of crutches even for walking. He has become unfit for any kind of manual work. As he was earlier a loader doing manual work, the amputation of his left leg below the knee, has rendered him unfit for any kind of manual work. He has no education. In such cases, it is well settled that the economic and functional disability will have to be treated as total, even though the physical disability is not 100%.'

43. Lord Reid in **Baker v. Willoughby** has said: (AC p. 492A)

"... A man is not compensated for the physical injury:

he is compensated for the loss which he suffers as a result of that injury. His loss is not in having a stiff leg: it is in his inability to lead a full life, his inability to enjoy those amenities which depend on freedom of movement and his inability to earn as much as he used to earn or could have earned...."

19. *In view of the law laid down by this Court in the above referred cases which are extensively considered and granted just and reasonable compensation, in our considered view, the compensation awarded at ₹60 lakhs in the judgment of the learned Single Judge of the High Court, out of which 30 lakhs were to be deposited jointly in the name of the appellant represented by his parents as natural guardian and the Chief Engineer or his nominee representing the respondent-Nigam in a nationalised Bank in a fixed deposit till he attains the age of majority, is just and proper but we have to set aside that portion of the judgment of the learned Single Judge directing that if he survives, he is permitted to withdraw the amount, otherwise the deposit amount shall be reverted back to the respondents as the same is not legal and valid for the reason that once compensation amount is awarded by the court, it should go to the claimant/appellant. Therefore, the victims/claimants are legally entitled for compensation to be awarded in their favour as per the principles/guiding factors laid down by this Court in catena of cases, particularly, in **Kunal Saha's case** referred to supra. Therefore, the compensation awarded by the Motor Vehicle Tribunals/Consumer Forums/State Consumer Disputes Redressal Commissions/National Consumer Disputes Redressal Commission or the High Courts would absolutely belong to such victims/claimants.*

CWP-2648-2014

If the claimants die, then the Succession Act of their respective religion would apply to succeed to such estate by the legal heirs of victims/ claimants or legal representatives as per the testamentary document if they choose to execute the will indicating their desire as to whom such estate shall go after their death. For the aforesaid reasons, we hold that portion of the direction of the learned Single Judge contained in sub-para (v), to the effect of ₹30 lakhs compensation to be awarded in favour of the appellant, if he is not alive at the time he attains majority, the same shall revert back to the respondent-Nigam after paying ₹5 lakhs to the parents of the appellant, is wholly unsustainable and is liable to be set aside. Accordingly, we set aside the same and modify the same as indicated in the operative portion of the order.”

In view of the principles of strict liability, absolute liability and *res ipsa loquitur*, I direct respondent Nos.3 to 5 to pay compensation of ₹8,00,000/- (Rupees eight lakhs) alongwith interest @ 6% per annum from the date of filing of instant petition out of which ₹7,00,000/- alongwith its interest will be paid to petitioners no.1 and 2, and ₹1,00,000/- alongwith its interest to petitioner no.3, within two months from the date of receipt of certified copy of this order.

The writ petition is allowed in above terms.

Costs made easy.

Before parting, I am constrained to observe that the writ petition has been drafted in a casual manner. Even proper averments have not been made with regard to the earning of the deceased. The writ

CWP-2648-2014

petition is virtually a cut paste of judgments where minimum facts have been mentioned. This court exercises extraordinary jurisdiction under Article 226 of the constitution of India and this section does not provide any limitations for the exercise of discretion but it is settled law that it must be exercised on recognized lines and not arbitrarily and subject to self imposed limitations. Reference in this regard can be made to *Sangram vs. Election Tribunal* (1955) 1 SCR 1. Therefore, with a purpose to do the complete justice, I have exercised discretionary power and proceeded to decide the case instead of delaying the agony of the petitioners by relegating them to other remedies.

It would be appropriate to mention that no provision has been brought to my notice by learned counsel for the parties with regard to the award of compensation in case of electrocution specifically provision of no fault liability and mechanism for providing compensation. As such, copy of this order be sent to the Union Ministry of Law and Justice, Law Commission of India, State of Haryana and Haryana Electricity Regulatory Commission for examination and taking appropriate measures for amendment in the Indian Electricity Act, 2003, Rules and Regulations.

19.10.2015
parveen kumar

(Paramjeet Singh)
Judge