

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

RSA No.2041 of 2010 (O&M)

Date of decision : 14.12.2015

Ashok Kumar

...Appellant

Versus

Sub Divisional Officer and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. C.B. Kaushik, Advocate for the appellant.

Mr. Sudhir Kumar, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved against the judgment and decree of the lower Appellate court, whereby compensation of ₹3 lacs as damages, have been awarded to the minor child, Ashok Kumar who allegedly suffered electrocution on 10.06.1999 as his both hands along with forearm and one foot thumb, have been amputated.

Mr. C.B. Kaushik, learned counsel appearing on behalf of appellant-plaintiff submits, that compensation claimed was to the tune of ₹10 lacs. However, the trial Court granted only ₹1 lac. In appeal, lower Appellate Court awarded sum of ₹3 lacs. Though umpteen number of evidence have been brought on record to show that there was negligence on part of the Electricity Board in not checking 33 KV lines thus submits that

following substantial question of law arises for determination by this Court:-

1. Whether the interest at the rate of 9% p.a. awarded by the lower Appellate Court in awarding compensation of ₹3 lacs less or not.

Mr. Sudhir Kumar, learned counsel appearing on behalf of respondent No.1 submits that appellant-plaintiff raised construction of the house on agricultural land in the year 1997 whereas 11,000 KV line was passing through since 1970. No permission at any point of time of the Nigam was ever sought, therefore it was complete negligence on the part of the father of the plaintiff and, therefore, plaintiff is not entitled to claim compensation in the shape of damages. Though appeal filed by the Nigam against the judgment and decree of the trial Court had been dismissed but the fact remains that a sum of ₹3 lacs along with interest @ 9% p.a. is fair, legal and justified and submits that no substantial question of law arises for determination.

Mr. C.B. Kaushik, in rebuttal has cited judgment of Hon'ble Supreme Court in *Raman Vs. UHBVN & ors., 2015(1) RCR (Civil) 353* to contend that Hon'ble Supreme Court granted compensation to the tune of ₹60 lacs in respect of four years old child who was electrocuted.

I have heard learned counsel for the parties and appraised the paper book.

The ratio decidendi culled out by Hon'ble Supreme Court in Raman's case (Supra) has been based upon the facts that live wire was lying on the roof of the house. However, present case is not the case, where the

negligence has been attributed to the Nigam. Rather pleading as set out in the plaint has not revealed that whether the construction of the house is single storey, double storey, or three storey. The categoric averments made in the written statement vis-a-vis having not sought permission from the Nigam for erecting the house in the year 1997, has not been rebutted by filing rejoinder or replication. Though the lower Appellate Court has placed the burden on the part of the Nigam to show whether steps were taken to check 33 KV Safidon-Assand Electricity Line erected in the year 1970 according to the Rules and Regulations but yet enhanced amount of compensation to the tune of ₹3 lacs.

Keeping in view of the aforementioned facts, that minor child had sustained serious burn injuries which resulted into electrocution in the right foot thumb and enhanced the amount of compensation from ₹1.00 lacs to ₹3 lacs along with interest at the rate of 9% p.a., I am of the view that though awarding interest @ 9% is less, keeping in view the rise in price index, the judgment and decree of the lower Appellate Court is, accordingly modified and the rate of interest is enhanced from 9% p.a. to 11% p.a.

Question of law which are noticed above is hereby answered in favour of appellant and against Nigam.

Appeal is partly allowed.

However, with regard to the findings vis-a-vis enhancement of the compensation in the shape of damages is upheld.

14.12.2015

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**(AMIT RAWAL)
JUDGE**