

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

LPA No. 779 of 2015 (O&M)

DATE OF DECISION : 11.08.2015

Municipal Council, Kharar

.... APPELLANT

Versus

Parminder Jit Kaur and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Kumar Vishav Aggarwal, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

Municipal Council, Kharar, has filed this intra-court appeal under Clause X of the Letters Patent against the order dated 09.01.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 4847 of 2012) filed by the widow and minor son of deceased Dhanwinder Singh under Article 226 of the Constitution of India, for awarding compensation on account of death of Dhanwinder Singh due to injuries caused by a stray animal within the municipal area of the appellant Council, has been allowed and the widow and child of deceased Dhanwinder Singh has been awarded compensation of ₹ 10,00,000/-, with interest @ 9% per annum from the date of filing of the petition till the date of payment.

Though there is delay of 100 days in filing the appeal, and the appellant has filed an application (CM No. 1624-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the

appellant on merits and have gone through the impugned order passed by the learned Single Judge.

Undisputedly, when Dhanwinder Singh was standing outside his office situated within the municipal area of the appellant Council, a stray animal hit him from the back and caused him grievous injuries. Due to those injuries, he died in the Hospital. As per the police and medical record, he died due to injuries caused by a stray animal.

Learned counsel for the appellant argued that there was no evidence before the learned Single Judge to the effect that the person had died due to injuries caused by a stray animal.

We do not find any substance in the aforesaid argument. The learned Single Judge considered this aspect and while relying upon police as well as medical record came to the conclusion that the person had died due to injuries caused by a stray animal, while observing as under :-

“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.”

The aforesaid finding of fact could not be successfully assailed by learned counsel for the appellant. Learned Single Judge, while noticing Section 182 of the Punjab Municipal Act, 1911, has found that it was the duty of the Municipal Council to take care of members of the public using the street. It has been observed that the appellant Council in this case has failed in its duty, therefore, widow and child of the deceased have been held entitled for compensation. While taking into consideration the monthly income of the deceased, which has been found to be ₹ 16,000/-, the learned Single Judge has assessed the compensation of ₹ 10,00,000/-. Neither the said assessment of compensation has been challenged by the appellant nor we find any illegality in the same. Thus, we do not find any ground to interfere with the impugned order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 11, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE