

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 19492 of 2003 (O&M)
Date of decision: 3.2.2016

Om Pati and others

.. Petitioners

v.

The State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vijay S. Kajla, Advocate for the petitioners.
Mr. Naveen Kaushik, Addl. Advocate General, Haryana.
Mr. D. K. Singal, Advocate for respondents No. 2 to 4.
None for respondent No. 5 despite service.

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Rajesh Bindal J.

1. Widow and children of deceased-Ram Rattan @ Rattan Singh have filed the present petition claiming compensation on account of death of Ram Rattan in electrocution from hanging power cable.

2. Learned counsel for the petitioners submitted that petitioner No. 1 is widow, petitioner No. 2 is daughter and petitioners No. 3 and 4 are sons of deceased-Ram Rattan. They are petitioners before this court claiming compensation. He had one elder daughter, who was already married. The date of birth of the deceased was 7.4.1956. He was agriculturist by profession owning about 13-1/2 acres of land. On 26.4.2003, deceased-Ram Rattan had gone on his motor cycle bearing registration No. HR-05-H-3880 towards his fields in village Bastli, but did not return back. The petitioners remained under the impression that as usual, he may have stayed back in the house near the fields. However, on the next

morning, they received a message that Ram Rattan was lying dead towards village Brass having been electrocuted by 11,000 KVA line. The matter was reported to the police. Post-mortem of deceased-Ram Rattan was conducted. The doctor opined cause of death to be electrocution. DDR was registered on 27.4.2003. As the death of Ram Rattan was caused on account of loose power cables drawn by Uttar Haryana Bijli Vitran Nigam Limited (for short, 'the Nigam'), it was liable to compensate the petitioners. It is further claimed that annual income of the deceased was about ₹ 7,50,000/-, as besides having 13-1/2 acres of land, he had taken 14 acres of land on lease from Satpal and was running milk dairy with 10 buffaloes. In support of his arguments, reliance was placed upon the judgments of Hon'ble the Supreme Court in M.P. Electricity Board v. Shail Kumar and others, AIR 2002 SC 551; M.S. Grewal and another v. Deep Chand Sood and others, (2001) 8 SCC 151 and this court in CWP No. 4122 of 2006—Pooja Bansal and others v. The State of Haryana and others, decided on 6.2.2014 and CWP No. 12213 of 2003—Ravinder Kaur and others v. Chandigarh Admn and others, decided on 6.2.2014.

3. On the other hand, learned counsel for respondents No. 2 to 4 submitted that as the petitioners have already got compensation of ₹ 50,000/- from Haryana State Agricultural Marketing Board on 3.10.2003, they are not entitled to any further compensation. They had even given an undertaking not to claim any further compensation. He denied negligence on the part of the Nigam while stating that on account of wind storm, the cable was loose. Such a situation is beyond the control of the Nigam. He further submitted that there is no proof of income of the deceased on record. The land is still with the family from which income is still available. Whatever compensation has been awarded to the petitioners, they are not entitled to any further amount.

4. Heard learned counsel for the parties and perused the paper book.

5. The fact that Ram Rattan died on account of electrocution from high-powered cable drawn by the Nigam is not in dispute. In support of the plea that his date of birth was 7.4.1956, his Matriculation certificate

(Annexure P-6) has been annexed. The unfortunate incident took place on 26.4.2003, hence, on the date of incident, he was 47 years of age. He had five dependents, namely, his widow, two daughters and two sons. However, the present petition has been filed by the widow, one daughter and two sons, as one daughter is already married.

6. The issue as to whether an electricity company is liable for compensation on account of electrocution from the power line was considered by Hon'ble the Supreme Court in M. P. Electricity Board's case (supra) and it was opined as under:

“The responsibility to supply electric energy in the particular locality is statutorily conferred on the Electricity Board. If the energy so transmitted caused 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 of potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the look out of 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 Board is also liable under the strict liability rule. The basis of such liability is the forceable risk inherent in the very nature of such activity. Act of stranger is one exception to the rule of strict liability. The said exception is not available to the

Board as the act attributed to the stranger should reasonably have been anticipated or at any rate its consequences should have been prevented by the appellant Board.”

7. In M. S. Grewal and another's case (supra), Hon'ble the Supreme Court opined that in case of death of school children by drowning due to negligence of teachers on a picnic, the compensation can be determined on the principles laid down in motor accident cases. The aforesaid judgments were followed by this court in Ravinder Kaur and others and Pooja Bansal and others' cases (supra).

8. The deceased in the present case was an agriculturist. It is claimed that he owned 13-1/2 acres of land. No doubt, in the unfortunate incident, he died, but the land is still available with the family. Still there had been contribution of the deceased of the labour put in by him in managing his land. Even if there is no proof of income produced by the petitioners on record, the same can safely be assessed in the year 2003 as ₹ 4,000/- per month, i.e., ₹ 48,000/- per annum. The deceased had four dependents. There being total five units in the family, cut of 20% on account of his personal expenses would be reasonable. After deducting the same, the dependency would come out to ₹ 38,400/- per annum. The deceased, being 47 years of age at the time of death, multiplier of 13 would be reasonable. After applying the same, the amount of compensation would come out to ₹ 4,99,200/-. In addition to that, under the heads “loss of consortium wife” and “funeral charges”, the petitioners are also held entitled to compensation ₹ 1,00,000/- and ₹ 25,000/-, respectively.

9. Resultantly, the petitioners are entitled to total compensation of ₹ 6,24,200/-, which is rounded off to ₹ 6,25,000/-. Out of the aforesaid amount, ₹ 50,000/- already paid to the petitioners shall be deducted.

10. The contention raised by learned counsel for respondents No. 2 to 4 that the petitioners have already availed of the benefit under a policy framed by Haryana State Agricultural Marketing Board are not entitled to any compensation is merely to be noticed and rejected for the reason that in the case in hand, the only bread earner in the family lost his life having been electrocuted with a high-powered cable erected by the Nigam. No doubt, in

the policy, under which financial aid is given by the Market Committees to the persons who suffer injuries in works relating to agriculture, it has been provided that they will not claim any compensation under motor accident claim cases or from any other department, however, the same very clause of the policy, which was circulated on 9.4.1999 provides that “Chairman of the Board and Chief Administrator are competent to give relaxation in these matters”. Meaning thereby, the rule is not absolute. Even otherwise, it cannot be made absolute. When the only bread earner of a family dies and some compensation like peanuts is offered, the family receives the same and signs whatever documents are required without even knowing the implications thereof. On that basis, they cannot be estopped from claiming legitimate compensation due to them, as calculated on the settled principles of law, whichever authority may be liable for the purpose. The life of the bread earner in the family cannot be assessed at ₹ 50,000/-. Such amounts are given only as a solace immediately after the death. However, if any such amount is given and the claimants are found entitled to get higher compensation from any other authority, the amount already awarded is adjustable.

11. For the reasons mentioned above, the writ petition is allowed. The petitioners are held entitled to compensation of ₹ 6,25,000/-. Out of the aforesaid amount, ₹ 50,000/- already paid to the petitioners shall be deducted. Out of the remaining amount of ₹ 5,75,000/-, ₹ 2,75,000/- be paid to the widow and ₹ 1,00,000/- each be paid to the children.

(Rajesh Bindal)
Judge

3.2.2016
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(Refer to Reporter)