

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

CWP No.10115 of 2014

Date of Decision: 15.03.2016

Sharmita and others

. . . .Petitioners

Versus

State of Haryana and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Parijat Gaur, Advocate,
for the petitioners.

Mr.P.P. Chahar, DAG, Haryana,
for respondents No.1 and 5.

Mr.Pardeep S. Poonia, Advocate,
for respondents No.2 to 4.

RAKESH KUMAR JAIN, J.

This petition is filed by the widow of Amit Kumar and his two minor children aged 2 years and 1 year, for seeking compensation on the untimely demise of their sole bread earner due to electrocution. It is alleged in the petition that the deceased Amit Kumar was 25 years of age. On 16.10.2013, he came in contact with 11 KV wire, which was hanging very near to the balcony of the house of the petitioners. Amit Kumar died on the spot. DDR dated 16.10.2013 was lodged and in the postmortem the cause of death has been recorded due to electrocution and its complications. The petitioners have claimed compensation on account of death of Amit Kumar.

Separate replies have been filed by respondents No.2 to 4 and respondent No.5.

In the reply filed by respondent No.5, it is averred that an information was received from the Control Room, Sonipat and the matter was reported/recorded vide DDR No.50 dated 15.10.2013 on the statement of Arjun s/o Nand Kishore. After recording the DDR, ASI Naresh Kumar alongwith HC Jasbir No.1595 and Constable Sachin No.1404, P.S. Sadar, Sonipat visited the place of occurrence from where they came to know that the injured has been taken to General Hospital, Sonipat. The police officials visited the General Hospital, Sonipat where the statement of Arjun s/o Nand Kishore was recorded that he alongwith his deceased brother Amit Kumar were the tenants in the house of Mange Ram, Gali No.2, Jeevan Vihar, Murthal Road, Sonipat. It is further averred that the cause of death of Amit Kumar was due to electric shock and hence, no cognizable offence was committed by any person.

In the reply filed by respondents No.2 to 4, it is submitted that the officials of the department had visited the premises in question and found that the HT line was properly installed. It was rather found that the unauthorised construction of bathroom was raised by extending the balcony, as a result thereof, the distance between the HT wire and the house had reduced because of which the deceased accidentally touched the wire and died. It is further submitted that there is no fault attributable to them for which they should be burdened with the amount of compensation.

Learned counsel for the petitioners has submitted that even if the respondents are not absolutely negligent, still they are

liable to pay compensation and has relied upon a decision of the Supreme Court in the case of **“Madhya Pradesh Electricity Board Vs. Shail Kumari”** 2002 (1) RCR (Criminal) 433. He further relied upon a Division Bench judgment of this Court in the case of **“Paramjit Kaur and others Vs. State of Punjab and others”** 2008(4) RCR (Civil) 772.

On the other hand, learned counsel for the respondents has maintained their stand taken in their reply that because of the unauthorised construction on the first floor, shown in the photographs, attached as Annexure P-1, the distance between HT wire and the house in which the deceased was living was reduced, as a result of which he may have accidentally touched the wire and died.

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

It is not disputed that the house in question does not belong to the deceased rather he was living in that house as a tenant. The height of the wire is very low as it is shown in the photograph, which was reasonably a cause of electrocution of the petitioner, who alleged to have accidentally touched the wire and expired. Thus, in the given facts and circumstances, I hold the respondents liable for compensating the petitioners for the death of Amit Kumar.

Now the question comes as to what compensation should be awarded to the petitioners? The petitioners, per chance, did not aver anything in the petition about the earning of the deceased. However, in the DDR registered by his brother Arjun, he

has alleged that his deceased brother was working in the shop of a scrap dealer at Murthal road, Sonipat. In the absence of any specific monthly earning of the deceased, the Court has to presume his earning as a dailywager and since he was a young man of 25 years, having two children, it can be safely assumed that he has been working all the 30 days of the month. In this process, taking his daily income as ₹200/-, monthly income comes to ₹6000/- out of which he must be spending 1/3rd on himself and contributing ₹4000/- towards the maintenance of his family. In the case of ***Paramjit Kaur and others (Supra)***, this Court has also applied the principle of compensation assessed in the case of a death in a vehicular accident and following that principle, the compensation to be awarded to the petitioners is assessed by considering the dependency to the tune of ₹4,000/- per month and the multiplier of 16 because of the age of the deceased which comes to ₹7,68,000/-.

The writ petition is thus, allowed. The respondents are directed to pay compensation of ₹7,68,000/- to the petitioners in equal share, who are the legal heirs of the deceased Amit Kumar. The said amount shall be distributed within a period of three months from the date of presentation of the certified copy of this order. The amount of compensation of the minor children shall be deposited by petitioner No.1 in FDRs, which shall be released with the permission of the Court or till the date of their majority.

15.03.2016*Vivek***(RAKESH KUMAR JAIN)
JUDGE**