

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

CWP No.17477 of 2014

Date of Decision:15.03.2016

Joginder Singh Chauhan and another

. . . .Petitioners

Versus

State of Haryana and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Virender Kumar, Advocate,
for the petitioners.

Mr.P.P. Chahar, DAG, Haryana.

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

RAKESH KUMAR JAIN, J.

This petition is filed by the parents of Tanuj, aged 9 years, who met with an accident on 26.1.2014, while playing on the roof of a single storey house of his neighbourer, Prem Chand, when he came in contact with 11 KV wire, passing near the roof of the house of Prem Chand, which was allegedly hanging on the height of 12 feet from the ground. Tanuj met with the accident when he was allegedly trying to release his kite from the electric wire with the help of 'Saria' and was severely electrocuted, resulting into his death on 28.1.2014. The petitioners lodged the DDR No.5(A) on 29.1.2014 disclosing the cause of the death of Tanuj by electrocution and its complications. The petitioners have alleged that on 13.9.2013, the members of the inhabitants of the locality, where the accident had occurred, made a complaint to the concerned authorities for removal of hanging electric wire. The

complaint was duly endorsed by the Municipal Councillor from their Ward. It is further averred in the petition that Tanuj died because of the negligence of the respondents and claimed a compensation of ₹30 lac.

Respondents No.2 to 4 in their reply, have denied that the electric wire was hanging at the height of 12 ft. as alleged. The negligence on the part of the respondents was further denied and attributed to the deceased, who had allegedly touched an iron rod with the 11 KV wire, while releasing his kite. In this regard, the respondents have also made an investigation from which it is established that the death of Tanuj had occurred because of electrocution.

Learned counsel for the petitioners has submitted that the respondents are liable to pay compensation even in the cases where there is no negligence on their part 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 has further relied upon a decision of this Court in the case of **“Rajesh Kumar and another Vs. Punjab State Electricity Board and others”** 2012 (4) PLR 700, in which on account of the death of a minor aged 7 years, compensation of ₹2 lacs was awarded.

Learned counsel for the respondents did not refer to any precedent but vehemently argued that the respondents should not be made liable for the fault of the deceased.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no dispute about the manner in which the accident had occurred in which the life of a boy of 9 years was lost. Even if, the deceased was trying to release his kite from the electric wire with the iron rod, he was not aware that this act of his would ultimately take his life. It was a natural behaviour of a 9 years old boy to get his kite released from the wire with the help of an iron rod, therefore, he cannot be held to be negligent in the given facts and circumstances rather the allegation of the petitioners appears to be plausible that the wire was hanging at a low level otherwise the boy of the age of 9 years could not have reached the electric wire even with a 'Saria'.

Thus, in these facts and circumstances, I am of the considered opinion that the respondents are liable to pay compensation to the petitioners on account of untimely death of their son Tanuj.

The next question would be as to what should be the amount of compensation? In this regard, learned counsel for the petitioners himself has relied upon a decision of this Court in the case of **Rajesh Kumar and another (Supra)**, in which a minor aged 7 years died due to electrocution and the compensation was awarded by this Court was of ₹2 lacs. Relying upon the said judgment, the present petition is hereby allowed by awarding ₹2 lacs as compensation to the petitioners on account of death of their son Tanuj, which shall be paid by the respondents within 30 days from the date of presentation of certified copy of this order.

(RAKESH KUMAR JAIN)
JUDGE

15.03.2016

Vivek