

Sr. No.116

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

CWP No. 321 of 2013

Date of decision:19.10.2016

Chander Kanta

.....Petitioner

versus

UHBVNL and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

Mr. Avi Dhankar, Advocate for
Mr. Pardeep Singh Poonia, Advocate
for the respondents.

Rakesh Kumar Jain, J.(Oral)

The petitioner is the widow of one Raj Kumar who died due to electrocution on 10.10.2010 at Panipat. She has prayed for issuance of a direction to the respondents to pay compensation to her to the tune of ₹ 20 lacs on account of untimely death of her husband. It is averred in the petition that deceased was about 35 years of age and was earning his livelihood by selling fruits on the rehri from the last many years and was earning atleast ₹ 10,000/-. DDR No. 267 dated 10.10.2010 was recorded at Police Post Tehsil Camp, Panipat in which it is recorded that the dead body of Raj Kumar was found entangled in the electricity transformer and the cause of death has been declared due to Electrocution in the postmortem report.

Counsel for the petitioner has submitted that the petitioner is entitled for compensation from the respondents dehors the question of negligence. He has relied upon the decision of the Apex Court rendered in

the case of M.P.Electricity Board vs. Shail Kumari 2002(1) R.C.R.

(Criminal) 433 in which the following observations have been made:-

“Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as “strict liability”. It differs from the liability which arises on account of the negligence or fault in the way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attribute. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.”

It is further submitted that in order to compute the amount of compensation, this Court can rely upon the formula provided in the Motor Vehicles Act, 1988 (for short, 'the Act') and has supported his arguments by referring to the division bench judgment of this Court rendered in the case of *Paramjit Kaur and others vs. State of Punjab and others 2008(4) RCR 712*. The relevant paragraph is as under:-

“Having held that this is a clear case of negligence,

incompetent workmanship and supervision on the part of the Board and its officials, which has resulted in the untimely and sudden death of Sh. Lajja Ram, we proceed to assess the amount of compensation to which the petitioners would be entitled to in the present case. Since there is nothing in the Acts governing the transmission and supply of Electricity which regulates the grant or quantum of compensation in our considered view the well settled and accepted principles adopted by the Courts for determination of compensation to be awarded in fatal accident cases under the Motor Vehicles Act, 1988 can be adopted, as the underlying principles for determination of the quantum of compensation are the same.”

Respondents have not denied that the deceased died because of electrocution and in view of the decision of the Apex Court rendered in the case of *M.P.Electricity Board(supra)*, the respondents are liable to pay compensation without going into the question of negligence. The question thus, arises as to what compensation should be awarded to the petitioner?

There is no evidence on record about the age of the deceased. However, it is mentioned in the postmortem report that the age of deceased was between 30-35 years.

Counsel for the petitioner has submitted that the age of deceased may be considered 35 years for the purpose of compensation. There is no evidence on record about the occupation and earning of the deceased though it is mentioned in the petition that he was a fruit seller and was earning not less than ₹10,000/- per month. In the absence of any

cogent evidence in this regard, the Court can only presume that since he was an able bodied man, therefore, he must have been earning at least ₹ 5,000/- per month.

Counsel for the petitioner has further submitted that as per the schedule appended to the Act, in case the age of the deceased is 35 years, the multiplier of 16 is to be applied. Thus, keeping in view the age of the deceased as 35 years and his income as ₹ 5,000/- out of which he must have been spending 1/3rd on himself, ₹ 3,500/- is assessed as monthly dependency for the petitioner and by multiplying 16 x 12 x 3500 the amount comes to ₹ 6,72,000/-.

Counsel for the petitioner has also relied upon a recent decision of the Apex Court rendered in the case of *Sandhya Rani Debbarma vs. National Insurance Co. Ltd.* 2016(8)SCALE 820 to contend that the petitioner is also entitled to funeral expenses to the tune of ₹ 25,000/- besides loss of consortium of ₹ 1,00,000/-. He has also submitted that petitioner is also entitled to 9% interest from the date of filing of this petition till the date of realisation.

There is no contest on behalf of the respondent to the legal submissions made by counsel for the petitioner. Consequently, the present petition is hereby allowed awarding ₹ 6,72,000/- towards compensation, ₹ 25,000/- towards funeral expenses, ₹ 1,00,000/- towards loss of consortium because the petition has been filed by wife of the deceased. The amount shall be paid by the respondent to the petitioner within a period of 3 months from the date of receipt of certified copy of this order and the said amount shall also bear interest @ 9% from the date of filing of this petition till the

date of payment.

19th October, 2016

Shivani Kaushik

[Rakesh Kumar Jain]
Judge

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No