

CWP No.6571 of 2014

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

**CWP No.6571 of 2014
Date of decision:14.12.2016**

Anju Rani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ravi Kamal Gupta, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Mr. J.P.S.Sandhu, Advocate,
for respondent No.6.

Rakesh Kumar Jain, J.

The petitioner, a 10th class student of the Government Senior Secondary School, Bhagsar, District Muktsar, was electrocuted in school on 23.02.2013. She was initially taken to the Government Hospital, Muktsar, then to the Government Hospital, Faridkot, and ultimately shifted to a private hospital in Amritsar. She lost her right arm and one toe. She was issued a Disability Certificate by the office of the Civil Surgeon, Sri Muktsar Sahib, assessing her disability to 80% and loss of two limbs. She ran from pillar to post, making various representations to various government departments and at last filed this petition, seeking direction to the respondents for providing her financial/medical assistance and other benefits.

On 06.01.2015, the following order was passed by this Court:-

“There is a contention taken by the Power Corporation that the accident had taken place at the school and the school itself was responsible for the electrocution resulting in grievous injuries to the petitioner. Either the Corporation or the school shall be answerable. It is a government school and the State of Punjab is already a party. The presence of the State ought to take care of the issue of whether the liability could be shared with the Corporation or not.

The disability certificate filed before court is grossly inadequate to assess the nature of injuries and the manner of its assessment. The petitioner avers that the electrocution has resulted in grievous injuries. It involved amputation of a hand and toes in one leg. The electrocution in a public place typically presents a res ipsa loquitur situation where the strict liability norm has to be applied against the person responsible for maintaining the facility. It will be possible to assess the compensation payable only if appropriate medical assessment is made. I request the Director, PGI, Chandigarh to constitute a Medical Board and the petitioner shall be examined on the date and time fixed by the Board. The identity of the petitioner shall be properly recorded and the assessment regarding the disability shall be made and a report sent to this court within a period of 8 weeks.

Adjourned to 30.03.2015.

The State shall file reply in the meanwhile and take appropriate instructions from the school authorities.”

In pursuance of the aforesaid order, the PGI, Chandigarh, re-examined the petitioner through a Medical Board, who had recorded the following minutes:-

- “1. The said patient has above elbow amputation in the upper one-third of the right arm. She will require a prosthetic arm to overcome her functional disability.
2. Patient will require a flap surgery on the arm before application of a prosthetic arm. The same will cost around INR 15000/- (Fifteen Thousand) in PGIMER.
3. The most suitable prosthetic arm of the patient would be

Myo AE Prosthesis. The cost of this is INR 1,43,000/- (one lac forty three thousand) at current market price. The average maintenance cost of this prosthetic arm is INR 10,000/- per year.

4. The patient will require around 4 to 5 new prosthetic during her life time.”

Thereafter, the following order was passed by this Court on
30.03.2015:-

“On perusal of the report of the Medical Board, as constituted in compliance with the order dated 06.01.2015 passed by this Court, it is apparent that there is permanent physical impairment in relation to the upper right limb to the extent of 85% and with regard to amputation of the right 5th toe, the percentage is 2.

Counsel for the petitioner submits that he has enquired with the doctors who are of the opinion that the petitioner would require implantation of artificial limb as also medications through-out her life to survive. He further states that the petitioner would require the same urgently and for that, some interim amount be assessed by the Court and disbursed to her or to the concerned Government/hospital so that the disability of the petitioner is adequately taken care of.

In view of the submissions made by the counsel for the petitioner, since the Medical Board has already looked into the medical records and a detailed medical examination of the petitioner stands conducted, the Court would request the said Board to assess the requirements with regard to the submissions made by the counsel for the petitioner and submit a report in this regard to this Court at an early date and preferably, within a period of six weeks. The Director, PGIMS, Chandigarh, is requested to facilitate the above request of this Court.

A perusal of the order dated 06.01.2015 clearly indicates that the respondent-State of Punjab was called upon to file reply on taking instructions from the school authorities but it appears that the respondent-State has not understood the order passed by this Court and it appears that a technical hitch is being pointed out for doing so i.e. that the Department of Education is not a party to the

writ petition.

This, in the light of the order passed by this Court dated 06.01.2015, cannot be a ground for not filing the reply. However, to remove this impediment, the Principal Secretary, Department of School Education, Punjab, is impleaded as respondent No. 7.

Let the reply be now filed by the newly added respondent No. 7 within a period of four weeks' from today with an advance copy to the counsel for the petitioner. In case, the reply is not filed within the time stipulated, the Principal Secretary, Department of School Education, Punjab, shall be present in Court on the next date of hearing.

Adjourned to 20.05.2015.

Copy of this order be handed over to the counsel for the parties under signatures of the Bench Secretary of this Court for information and compliance. A copy of this order be also sent to the Director, PGIMS, Chandigarh forthwith.”

The aforesaid order was followed by the order dated 21.05.2015, which reads as under:-

“In compliance with the order passed by this Court on 30.03.2015, the report of the Medical Board has been received. The conclusions of the Board are as follow :-

- “1. The said patient has above elbow amputation in the upper one-third of the right arm. She will require a prosthetic arm to overcome her functional disability.
2. Patient will require a flap surgery on the arm before application of a prosthetic arm. The same will cost around INR 15000/- (Fifteen thousand) in PGIMER.
3. The most suitable prosthetic arm for the patient would be Myo AE Prosthesis. The Cost of this is INR 1,43,000/- (one lac forty three thousand) at current market price. The average maintenance cost of this prosthetic arm is INR 10,000/- per year.
4. The patient will require around 4 to 5 new prosthesis during her life time.”

In view of the above, for the present, a direction is issued to the Principal Secretary, Department of School Education, Punjab

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respondent No.7 to pay an amount of ₹2,00,000/- to the petitioner within a period of four weeks from today. The petitioner, shall, thereafter, approach the Postgraduate Institute of Medical Education & Research, Chandigarh, for further necessary medical treatment.

It shall be open to the concerned department to recover the liability as per their own agreement from respondent No.5.

List for further consideration on 08.09.2015.

On 14.09.2015, the following order was passed:-

“In pursuance of order dated 08.09.2015, Mr. C. Roul, Principal Secretary, School Education is present in court and has handed over a draft of ₹2,00,000/- to the petitioner for treatment who has been identified by Shri Ravi Kamal Gupta, Advocate. In addition thereto, an additional affidavit of Director Public Instructions (S.E.) Punjab on behalf of respondent no. 7 has been filed in court today and the same is taken on record. It is stated in the reply that Punjab State Power Corporation Limited shall pay further amount, if any granted to the petitioner.

In view of this, the presence of the Principal Secretary, School Education is dispensed with.

Adjourned to 20.10.2015.”

During the pendency of the writ petition, a meeting was held on 19.08.2015 under the Chairmanship of Shri Sarvesh Kaushal, IAS, Chief Secretary, Government of Punjab, in which the following minutes were recorded:-

“Minutes of the meeting held under the chairmanship of Shri, Sarvesh Kaushal, IAS, Chief Secretary, Govt. of Punjab held on 19.08.2015

The following Officer(s) attended the meeting:-

1. Shri C. Roul, I.A.S., Principal Secretary, Department of School Education, Punjab.
2. Shri B.S.Dhol, Director Public Instructions (SE), Ajitgarh, Punjab,
3. Shri Amrik Singh, Superintending Engineer, Shri Mukatsar

Sahib, PSPCL.

4. Shri Kuldeep Verma, XEN, Shri Muktsar Sahib, PSPCL.

Principal Secretary briefed the case that on dated 23.02.2013, Anju Rani student of Xth Class in Govt. Senior Secondary School, Bhagsar, Distt. Shri Mukatsar Sahib came in touch with high tension electric wire and during the course of treatment her right arm and one toe was amputated. She filed CWP 6571 of 2014 for compensation and the Hon'ble High Court vide order dated 21.05.2015 directed that the Rs.2,00,000/- be paid to the petitioner as interim compensation for prosthetic arm and final decision regarding the compensation will be given on next hearing. A meeting between Principal Secretary, Department of School Education, and Authorities of PSPCL was held on 12.05.2015 and it was decided that it is the joint responsibility of Department of Education and PSPCL to give compensation to the petitioner as per the order of Hon'ble Court. The share of each Department will be decided by the Chief Secretary.

The Department of School Education has already assisted Rs.4.99 lakhs for treatment of the girl. In addition, the DPI (Secondary Education) has paid Rs.50,000/- (the highest permissible amount) from the Accident Compensation Scheme of the Department. In view of the significant contribution already made by the Department of School Education, it was decided in the meeting that the compensation for prosthetic arm Rs.2,00,000/- will be paid by the PSPCL and it was also further decided that if the Hon'ble Court decide to enhance the amount of the compensation, the same will be paid by PSPCL.

It was further decided that PSPCL will pursue the case in the Hon'ble High Court effectively and comply with the orders of the Hon'ble High Court in this regards.

The meeting ended with a vote of thanks to the chair.”

Counsel for the petitioner has submitted that the petitioner has received the interim maintenance of ₹2,00,000/- awarded by the Court for her past and present treatment as the petitioner remained in hospital for a long time before her right arm and toe was amputated but the petitioner has

not been compensated for the loss of limb, permanent disability, trauma, pain and suffering, loss of enjoyment of life and loss of prospectus of marriage being a girl because of the prosthetic arm etc. He has relied upon a decision of the Supreme Court in the case of **Raman vs. Uttar Haryana Bijli Vitran Nigam Limited**, (2014) 15 Supreme Court Cases 1, in which compensation of ₹60 lacs was awarded to a boy, aged 5 years, who while electrocuted lost his both hands and one leg. It is further submitted that the petitioner has been given Above Elbow Prosthesis for ₹1,56,000/- by the Deep Artificial Limb Center but it is mentioned by the said Center that the expected average life of the prosthesis is 3-4 years depending upon its use and there may be a requirement of socket change once a year, depending upon the volumetric changes in the stump, the cost of which will be ₹10,000/-. It is submitted that the petitioner is 21 years of age and there would be changes in the stump after every 3-4 years, for which no provision has been made and also about the annual maintenance expenses which are to be charged by the Center who has provided the artificial limb.

On the other hand, counsel for the respondents has submitted that adequate compensation has already been paid to the petitioner who has also got the artificial limb out of the money paid.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the artificial limb provided to the petitioner is no solace to the trauma already faced and the agony to be faced throughout her life. Therefore, the petitioner deserves to be compensated in lump sum with ₹10,00,000/- on account of her permanent

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disability, treatment expenses, mental pain and agony and future prospectus etc., which shall be paid to her by the PSPCL in view of the decision taken in the meeting dated 19.08.2015 under the Chairmanship of the Chief Secretary, Government of Punjab. The amount shall be paid within a period of one month from the date of receipt of certified copy of this order.

Besides the aforesaid compensation of ₹10,00,000/-, the petitioner would also be entitled to file the appropriate application in this writ petition, through the Legal Aid Services Authority of this Court, asking for the cost of socket, which is allegedly to be changed depending upon the volumetric changes in the stump, and also for the amount of annual maintenance from time to time. Any such application, if filed, is directed to be listed before the appropriate Bench, for orders, without any delay.

At this stage, counsel for the petitioner has submitted that the prayer made by the petitioner in the writ petition for providing job to her to earn her livelihood may also be considered. It is submitted that the petitioner is pursuing her studies and at present she is in B.A. 1st year.

Keeping in view the request made, it is ordered that in case the petitioner applies for a job to the government in her category as per her qualification, she shall be considered sympathetically.

December 14, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No