

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 8450 of 2014 (O&M)

Date of Decision: March 20, 2017

Partapa

.....Petitioner

Vs.

UHBVNL and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.N.S. Dhillon, Advocate
for the petitioner.

Mr. P.S. Poonia, Advocate
for respondents No.1 and 2.

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M.M.S. BEDI, J.

Through instant petition under Articles 226/227 of the Constitution of India, the petitioner has challenged the legality of the order annexure P-3 dated March 15, 2013 passed by Permanent Lok Adalat for Public Utility Services by virtue of which the claim of the petitioner for a sum of Rs.58000/- on account of death of buffalo was dismissed.

Petitioner claims that it is the legal obligation on the part of the Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)- respondents No.1

and 2 to protect the life of the living organism from high tension and low tension electricity lines on account of the fact that the electricity consumption bills are collected from the consumers. On September 8, 2012, while the petitioner was going to his fields to graze his cattle, when one of the buffalos of the petitioner while passing near the transformer, came in contact with a loose wire as a result of which it fell down and died on account of electrocution. Matter was reported to the local police. The authorities of the respondents Corporation visited the spot and after disconnecting the electricity supply, the dead buffalo was separated from the live wire. The postmortem examination of the dead body of buffalo was conducted. The petitioner filed a claim before the Permanent Lok Adalat for Public Utility Services for grant of compensation. After making an attempt for reconciliation, the matter was taken up on merits but petition under Section 22 C of the Legal Services Authority Act, 1987 was dismissed.

The photographs showing the entangled horns of the buffalo in the live wire; the DDR, report of the police investigation, and the postmortem report were produced but the Permanent Lok Adalat for Public Utility Services dismissed the application of the petitioner forming an opinion that there was no evidence indicating that the buffalo died on account of any of the negligence on the part of respondents as it was not proved that any complaint was lodged by any one with the respondent Corporation regarding defect/ current in the electric system.

I have heard counsel for the petitioner, counsel for the respondents and gone through the facts and circumstances of the case and the material placed on the record. There is no dispute that the Corporation dealing with supply of supply electricity is also required to maintain the system taking into consideration the safety of the rights of the living organism including the human beings and animals. The material produced on the record clearly indicates that the animal died an unnatural death on account of electrocution regarding which postmortem had taken place and an FIR has also been registered. In order to hold one negligent, the necessary ingredients to be taken into consideration are whether there is an obligation on one party towards the another; whether there has been any breach of obligation and whether the said breach of obligation resulted in damage which has been caused to the party. In case the above said ingredients are proved, it is only thereafter that an aggrieved person who has suffered loss could be granted damage. I am of the considered opinion that there is an obligation on part of the respondents to not only make efforts to supply uninterrupted electricity as per the various schemes but at the same time to ensure that the necessary steps regarding safety are taken.

In the present case a loose wire having come in touch with the buffalo belonging to the petitioner, there is apparent breach of obligation on the part of respondents. Had the live wire not been left loose or at lower level, the buffalo of the petitioner could have been saved. On account of death of the buffalo, the petitioner certainly has suffered a loss for which he

is required to be compensated. No doubt, the compensation can be claimed by availing the remedy of filing a suit but since the respondents are an instrumentality of the State and prima facie negligence is apparent, I am of the considered opinion that the petitioner deserves to be compensated.

Without going into the details regarding the extent of loss and without going into the details to determine the extent of loss, I deem it appropriate to allow the petition for grant of compensation of Rs.50000/-.

Ordered accordingly.

It is directed that the said amount will be paid to the petitioner within a period of 2 months after the receipt of certified copy of the order. In case of failure on the part of respondents to pay this amount within above said period, the petitioner would be entitled to interest on the said amount at the rate of 6% per annum from the date of the application before Permanent Lok Adalat.

March 20, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.