

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

LPA No.1573 of 2017 (O&M)

Date of Decision : 24.08.2017

The Municipal Committee/Council, Bhiwani

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present: Mr.Jagdish Manchanda, Advocate
for the appellant.

...

MAHESH GROVER, J. (Oral)

The appellant is in appeal against the order of the learned Single Judge dated 10.03.2017 ordering a payment of Rs.2 lacs as interim compensation to the writ petitioner who had claimed compensation on account of the death of her husband when the scooter that he was riding struck a stray bull resulting in his death.

Learned counsel for the appellant contends with reference to the notification on record which mandates recourse to civil proceedings before the court of competent jurisdiction and therefore, the writ itself will not be maintainable, much less the award of compensation, particularly when the negligence of the appellant is yet to be established.

After hearing the learned counsel for the appellant, we

are of the opinion that the instant appeal deserves dismissal for the following reasons :-

The appellant being a Municipal Council has a duty cast upon it to ensure that stray cattle/animals do not roam around in the city causing not only traffic hazard but also resulting in threat to the movement of the people and injury to limbs. A perusal of the provisions of Haryana Municipal Act, 1994 would reveal a duty cast upon the Council to maintain cattle pounds or areas where such stray cattle/animals can be housed. Evidently, when the stray cattle/animals are found on the roads, it is suggestive of dereliction of the duty cast upon it by the Act and negligence as an inference is an inescapable conclusion. Therefore, the plea of the appellant that they are not negligent cannot be accepted.

In so far as the plea raised that only civil court would have the jurisdiction is concerned, we are of the opinion that in the exercise of vast powers conferred under Article 226 of the Constitution of India, the court is empowered to do substantial justice to those who approach it. Besides, the amount of Rs.2 lacs awarded as merely an interim compensation and the learned Single Judge is still seized of the matter. We are, therefore, not inclined to exercise our correctional jurisdiction in intra court appeal.

Besides, the appeal is also barred by a delay of 131 days which we do not intend to condone for the reason that despite service the appellant failed to appear before the learned Single Judge and were proceeded against ex parte. Lack of knowledge as a ground would thus not be available to them considering that despite service they did not appear before the writ court.

Dismissed.

(MAHESH GROVER)
JUDGE

24.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No