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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 23<sup>rd</sup> November, 2017**

+ W.P.(C) 2584/2008

SOHAN LAL & OTHERS

..... Petitioners

Through: Ms.Aruna Mehta, Advocate  
versus

GOVT. OF N.C.T. OF DELHI & ANR.

..... Respondents

Through: Mr.Satyakam, ASC for GNCTD with  
Mr.Akshay Agarwal, Advocate.  
Mr.Rajeeve Mehra, Sr. Advocate with  
Mr.Samrat Nigam, Mr.Abhimanyu  
Walia, Ms.Jaya Verma, Advocates for  
respondent no.2, BSES Rajdhani  
Power Ltd.  
SI Sachin Yadav, P.S. Vikas Puri.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**JUDGMENT (ORAL)**

1. On 3<sup>rd</sup> May, 2007, Baby Sanjana aged about 6 years and Baby Kali, aged about 4 years were playing in the street in front of house No.JG-II/508, Vikas Puri when Baby Sanjana accidentally touched the electricity pole No.48. Baby Kali tried to rescue her but she also got stuck to the pole as the electric current was flowing in the said pole. Amarjeet standing outside his shop, ran to the spot and separated the girls from the electric pole with the help of a broom. Both the girls were rushed to Deen Dayal Upadhyay Hospital where Baby Sanjana was declared brought dead whereas Baby Kali suffered burn injuries. Appellants no.1 and 2 are the parents of Baby

Sanjana and they are seeking compensation for the death of their daughter, Baby Sanjana due to electrocution. Appellant no.3 is the injured girl and she is seeking compensation for the injuries suffered due to the electric shock.

2. The police registered FIR No.168 dated 3<sup>rd</sup> May, 2007 under Section 337/304A IPC against Gautam Pal Sharma and Kashi Kant Jha in which the chargesheet has been filed and the criminal case is pending trial.

3. Vide order dated 24<sup>th</sup> October, 2017, the Electrical Inspector was directed to produce the inspection report in pursuance to which Electrical Inspector's letter dated 5<sup>th</sup> June, 2007 to SHO, P.S. Vikas Puri was produced which is reproduced hereunder:

*"To,  
The Station House Officer,  
Police Station, Vikas Puri,  
Delhi.*

*Sub:- Electrocution of Kumari Sanjjana, occurred At Pole No. – 48 of B.S.E.S. Rajdhani Power Ltd. installed in front of House No.J.G.-II/510 Vikas Puri, Delhi, on 03.05.07.*

*Ref.: F.I.R.No.168 dt.03.05.07 U/s 337.304 A/Police Station, Vikas Puri Delhi.*

*Sir,*

*The information about the above said accident case was given to this office on 09.05.07 by Sh. Sis Ram Gautam, Sub-Inspector Police Station Vikas Puri Delhi. The said case was investigated on 11.05.07 by the undersigned alongwith Sh. Sat Pal Singh, Electrical Overseer of this Inspectorate in the presence of Sh. Sis Ram Gautam, Sub-Inspector Police Station Vikas Puri Delhi and Sh. B.P. Sood Manager (O & M); Sh. O.P Gaba, Asstt. Manager (O & M) and Sh. G.P. Sharma maintenance officer B.S.E.S. Rajdhani Power Ltd. Zone 1504, Distt. Vikas Puri Delhi. During the course of investigation it was reported by the Police that on 03.05.07 Kumari Sanjjana and Kali while playing in the street happened to come in contact with the metallic pipe of pole No.48 of B.S.E.S. R.P.L. fixed in front of House No.JG-II/510, Vikas Puri Delhi, received electric shock which proved*

*fatal to Kumari Sanjjana. On making enquiry it was reported by Sh. Ram Jiyawan Pal alias Phool Singh lineman of M/s. Anupam Traders that on 03.05.07 he went to attend the no current complaint No.-145 971 (H.No. JGII/510, 496) dt. 03.05.07 at pole No.-48 situated in front of H.No.-JG-II 510 Vikas Puri Delhi. He found that one of the outgoing underground cables got short circuited/brunt. The blunt portion was touching the metallic pipe through which the said cable was passing. He further stated that, the flashover took place also on 02.05.07 in the intervening night of 2<sup>nd</sup> and 3<sup>rd</sup> May, 2007 on the same pole, but on other circuit. The same was repaired in the intervening night of 2<sup>nd</sup> and 3<sup>rd</sup> May, 2007 by Sh. Kanshi Ram another lineman M/s Anupam Traders.*

*It is further mentioned here that the blunt cable/metallic pipe with which the said accident reported to have occurred was found repaired before the inspection, and no information/telegraphic report within 24 hours of knowledge of occurrence of the electrocution and written report within 48 hours of the knowledge of occurrence of electrocution case was given to this office as required under the provisions of Rule 44A of Indian Electricity Rules, 1956.*

*At the time of inspection, it was observed that a electric pole No.48, of B.S.E.S. Rajdhani Power Ltd. was found installed in front of House No.JG-II/510, Vikas Puri, Delhi. There were three outgoing underground cables, out of which, two cables 4 X 25 mm each were feeding supply to the above said quarters and one cable 2 X 10 mm was meant for park light. Supply to the said overhead lines was 3 phase 4 wires system. The same was being fed from the unattended 11 KV Indoor sub/station JG-III Jhuggi wala, Vikas Puri, Delhi. The instructions were given to the B.S.E.S. staff for digging the soil again to check the cable. A cable 4 X 25 mm with which the said accident occurred was passing through a metallic pipe fixed along side the main pole. The metallic pipe was found not earthed. It reveals from the circumstances that the end of the blunt cable came in contact with the metallic pipe, as a result the metallic pipe got electrically charged. Kumari Sanjjana and Kali who happened to come in contact with the electrically charged metallic pipe received electric shock which proved fatal to Kumari Sanjjana.*

*The unattended 11 KV Indoor Sub/Station JG-III Jhuggi wala, Vikas*

*Puri was also inspected on the same day i.e. on 03.05.07. The Air circuit breaker feeding to the said overhead lines was found defective. As such the electrical installation was found not maintained in such a manner to ensure the safety of human beings and animals, as there had been no tripping after the occurrence of short circuit of underground cable and even after the occurrence of electrocution of Kumari Sanjjana.*

*At the time of inspection, the following provisions of the Indian Electricity Rules, 1956 had not been found complied with:- by B.S.E.S. Rajdhani Power Ltd.*

*(1) The electrical installation of the said overhead lines had not been found protected, worked, and maintained in such a manner to ensure the safety of human beings and animals as there had been no tripping from the unattended 11 KV Indoor Sub/Station JG-III Jhuggi Wala, Vikas Puri, Delhi, after the occurrence of short circuit of the underground cable and even after the electrocution of Kumari Sanjjana in contravention of provisions of Rule 29(1) of the said rules.*

*(2) All metal supports of the said overhead lines and metallic fittings, attached thereto had not been permanently and efficiently earthed as required under the provisions of rule 91(1) of the said rules.*

*(3) No telegraphic report within 24 hours of the knowledge of occurrence of the electrocution and written report within the 48 hours of the knowledge of the said electrocution case of Kumari Sanjjana, was given to this office in contravention of provisions of rule 44A of the said Rules.*

*Yours faithfully.*

*Sd/-*

*(T.D. KHATRI)*

*Asstt. Electrical Inspector  
Delhi.*

*(Emphasis supplied)*

4. Mr.Rajeeve Mehra, learned senior counsel on behalf of the BSES Rajdhani Power Ltd. submits that the residents of JJ Cluster had laid illegal

wires for illegal abstraction of energy and the two children came in contact with the illegal wires. Learned senior counsel has referred to the internal report of BSES Rajdhani Power Ltd.

5. After considering the reports of Electrical Inspector and BSES Rajdhani Power Ltd., this Court accepts the report dated 5<sup>th</sup> June, 2007 of the Electrical Inspector. This Court is not satisfied with the findings contained in report dated 9<sup>th</sup> May, 2007 of BSES Rajdhani Power Ltd.

6. Appellant no.3, Baby Kali present in Court today is aged 15 years and she suffered permanent deformity of the index finger of the right hand and a scar on the abdomen. The photograph of Baby Kali at the relevant time showing the scar on the abdomen is handed over and taken on record.

7. In the peculiar facts and circumstance of this case, compensation of Rs.10 lakhs is awarded to appellants no.1 and 2 along with interest @ 7.5% from the date of filing of the petition in respect of death of Baby Sanjana. With respect to the injuries suffered by appellant no.3, compensation of Rs.1,50,000/- along with interest @ 7.5% from the date of filing of this petition is awarded to appellant no.3.

8. Learned counsel for appellant no.3 submits that Kali is the nick name of appellant no.3 and her correct name is Usha. Learned counsel for appellant no.3 has produced the original Aadhaar card according to which the name of appellant no.3 is Usha. The copy of the Aadhaar card is taken on record. The name of appellant no.3 is corrected as Baby Kali @ Usha. The amended memo of parties be filed by the appellant within two weeks.

9. Respondent no.2, BSES Rajdhani Power Ltd. is directed to deposit the compensation amounts with the Registrar General of this court within 30 days.

10. Learned senior counsel for respondent no.2 submits that respondent no.2 shall file a petition for quashing of FIR No.168/07 before the release of the compensation amount to the appellants. Learned counsel for the appellants submits on instructions from the appellants that the appellants have no objection to the quashing of the FIR. It is submitted that the appellants shall give their no objection to the quashing of the criminal case within one week of the deposit of the compensation amount. The appellants also agree to appear before the competent Court for giving their no objection to the quashing of the FIR after deposit of the compensation amount.

11. List for disbursement of the compensation amount on 20<sup>th</sup> December, 2017 at 2.30 PM.

12. The appellants shall remain present in Court on the next date of hearing along with the passbooks of their savings bank accounts near the place of their residence as well as PAN card and Aadhaar card. The concerned banks are directed not to issue any cheque book and/or debit card to appellants and if the same have already been issued, the Banks are directed to cancel the same. The appellants shall produce the copy of this judgment before the concerned Banks whereupon the Banks shall make an endorsement on the passbook that no cheque book or debit card shall be issued to appellants without the permission of this Court.

13. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

**NOVEMBER 23, 2017/dk**

**J.R. MIDHA, J.**