

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.18147 of 1996
Date of Decision: 17.04.2018

Kamaljit Singh

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Suvir Sidhu, Advocate,
Mr.Balwinder Singh, Advocate, and
Mr.Daljit Singh, Advocate,
for the petitioner.

Mr.H.S. Sitta, AAG, Punjab.

Mr.Y.P. Khullar, Advocate,
for respondents No.2 to 5.

RAKESH KUMAR JAIN, J.

The petitioner is the father of Sumit Kumar, who has prayed for the issuance a writ in the nature of mandamus to direct the respondents to pay compensation on account of injuries suffered by his son Sumit Kumar due to electrocution in which his both hands have been amputated.

It is alleged that on 3.3.1996 at about 6:30 PM, Sumit Kumar, who was 6 years of age at that time, while playing on the roof of his house, came into contact with the loose wires and was electrocuted. Sumit Kumar was taken to Chandra Hospital, Derabassi and later on shifted to PGI, Chandigarh on the same day but in order to save his life his both hands were amputated. He was admitted in PGI, Chandigarh on 3.3.1996 and discharged on 15.3.1996. The petitioner has alleged that he had written two

letters to the respondents on 15.3.1995 and on 21.6.1995 for removing the high tension wire of 11 KV, crossing over his house, but to no effect and ultimately on the fateful day when Sumit Kumar was playing on the roof of his house, suddenly strong wind started blowing because of which he came in contact with loose wires which got entangled with the high tension wire and was electrocuted.

In the reply filed by respondents No.1 to 4, their stand is that the petitioner has himself committed a mistake as he has failed to give notice to the respondents to shift/remove electric wire/poles before raising construction of the house in the fields. It is also averred that the petitioner had informed the respondents on 26.4.1996 about the accident which took place on 3.3.1996 and registered the FIR on 05.05.1996. The respondents have also alleged that there is at least 12 feet distance between the roof and wire which cannot be touched until and unless an iron rod is used.

At the time of hearing on 13.11.1997, this Court had passed the following order: -

“When the case was taken up on the last date of hearing, counsel for the respondent-Board sought time to seek instructions in the matter of payment of compensation to the petitioner for the disability caused to the minor child who was electrocuted from 11 KV wires passing over the house of the petitioner in village Dera Bassi. Today, Mr. Khullar states that inspite of requests the petitioner

did not furnish the birth certificate of the minor child nor did he supply the certificate showing the extent of disability. Copy of the birth certificate has been handed over to the learned counsel for the board in Court. As regards the extent of disability, we direct the Board to proceed on the basis that the minor child has suffered 100% disability as both his arms have been amputated as a result of the accident and he has also received a serious head injury. The injured child is present in Court and the disability suffered by him is obvious.

Mr.Khullar states that the Chief Engineer of the Board is the competent authority to fix the amount of compensation to be paid to the petitioner. He seeks three weeks' time to enable the competent officer to take a decision thereon.

The case is adjourned to 5.12.1997.

Meanwhile, the competent officer is directed to decide in regard to the amount of compensation which the Board is willing to pay and inform the court on the next date of hearing. We do hope and expect that the

competent authority will take compassionate view in the matter and fix a reasonable amount of compensation to be paid to the petitioner.”

Ultimately on 17.12.1997, the following order was passed by this Court: -

“Learned counsel for respondents 2 to 5 has placed on record sanction order whereby an amount of ₹60,000/- has been sanctioned as compensation to the unfortunate victim. Let the amount of ₹60,000/- be paid to the claimant within 10 days from today.

Admitted with regard to find out as to whether the victim deserves more compensation or not.

The amount of ₹60,000/- shall be deposited in the name of Sumit Verma in a fixed deposit from year to year basis. The child may withdraw the amount of interest on the deposited amount and withdraw the entire amount after attaining majority.”

Learned counsel for the petitioner has submitted that on 17.12.1997, the petitioner was ordered to be paid ₹60,000/- within 10 days and the writ petition was admitted to find out as to whether the petitioner deserves more compensation or not. Thus, there is no issue of negligence

because had it been so, the admission order passed by this Court on 17.12.1997 would have been passed regarding the question of negligence as well but the writ petition was admitted only to find out as to whether the son of the petitioner deserves more compensation or not.

Learned counsel for the petitioner, in regard to the payment of more compensation, has relied upon a decision of the Supreme Court in the Case of “*Raman vs Uttar Haryana Bijli Vitran Nigam*” 2015(4) SCC 129 to contend that the petitioner deserves to be awarded ₹60 lac towards the compensation.

On the other hand, learned counsel for the respondents has not referred to any precedent on the basis of which the Court can assess the compensation but has submitted that the petitioner has already been awarded suitable compensation at the time of admission of the case. It is also submitted that the petitioner was 6 years of age at the time when he met with the electrocution accident and now he must be 28 years of age, therefore, it is submitted that the judgment relied upon by the petitioner in the case of *Raman (Supra)*, which pertains to the grant of compensation to 4 year old boy, injured due to electrocution, cannot be applied to the case of the son of the petitioner.

I have heard learned counsel for the parties and perused the available record with their able assistance.

It is not disputed that the petitioner was 6 years of age at the time of the accident and had lost both the arms at that time. The Court had granted interim maintenance to the tune of ₹60,000/- on 17.12.1997 and admitted the main petition to find out as to whether the petitioner deserves

more compensation as the petitioner has claimed ₹15 lacs as compensation in the writ petition. Learned counsel for the parties have not given any clue to the Court about the present condition of the petitioner who has now attained the age of 28 years. The decision rendered in the case of ***Raman (Supra)*** would not be applicable as it is to the facts and circumstances of the present case as in the case of Raman (Supra), he had lost both the hands and a leg but the miseries of the petitioner, in the present case, are also not less, on account of loosing his both hands that too at the tender age of 6 years. He might have learnt by how to live and manage his daily chores without the arms but he has been rendered 100% disabled, suffered immense pain and suffering, lost prospects of a better life as a complete human being, therefore, I am of the considered opinion that the petitioner deserves to be awarded the amount of compensation claimed by him in the writ petition to the tune of ₹15 lacs which shall be paid by the respondents, over and above the amount of compensation of ₹60,000/- already paid in pursuance to the order dated 17.12.1997, within a period of 3 months from the date of receipt of certified copy of this order. In case, the amount is not paid as directed by this Court, the respondents shall pay the aforesaid amount with interest @ 9% from the date it became due by virtue of this order i.e. 3 months from the date of receipt of certified copy of this order till it is actually paid.

With these observations, the present petition is hereby allowed.

(RAKESH KUMAR JAIN)
JUDGE

17.04.2018

Vivek

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No