

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

CWP-1025-2016

Date of decision-13.12.2018

Sunil Devi and others

...Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Sihag, Advocate,
for the petitioner.

Mr. Sunil Kumar Sharma, Advocate,
for respondent No.1.

Ms. Anupama Sharma, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J.

Prayer in the instant petition under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of Mandamus, directing the respondents to pay compensation to the petitioners on account of death of Raj Kumar, husband of petitioner No.1 and father of petitioner Nos.2 to 4, due to electrocution.

Learned counsel for the petitioners contends that the death of the deceased occurred due to electrocution as a result of gross negligence of respondents in not maintaining and upkeeping of their infrastructure. On 31.07.2013 at about 7.30 p.m., while the deceased was passing through

Vakilon Wali Gali, got electrocuted on account of electric current running in the electric pole. A DDR was also recorded by the police in this regard. The petitioner, aged about 45 years at the time of death, was working as Nursing Orderly with ESI Hospital, Rohini, New Delhi, and was receiving gross monthly salary of ₹18,583/-. despite the repeated requests made by the petitioner, the authorities failed to act against the persons responsible for the mishap as also to grant compensation to the dependants of the deceased.

On the other hand, learned counsel for respondent No.1 contends that as per the site inspection carried out by the concerned SDO, it was found that the accident had occurred due to the sole negligence of respondent No.2-Municipal Corporation and the same could have been avoided if the street light point had been in order.

Whereas, learned counsel for respondent No.2 submits that the current had passed through the pole as the personnel of the respondent No.1-Nigam, left the wire joint exposed which led to the accident.

Heard.

It is to be noticed that the factual position has not been denied by the respondents that on 31.07.2013, Raj Kumar, since deceased, died on account of electrocution after coming into contact with electric current running through the street light pole. Though, both the respondents have tried to shift the responsibility on each other, but spot inspection report prepared by the concerned SDO (Annexure R-1) suggests that the street light point was found installed on Tubular telephone pole, the lower cover of the street light point was found filled with water which caused accident,

whereas, respondent No.2 has taken a stand that the accident had occurred due to opening of wire. This goes to show that both the respondents were negligent in maintaining the infrastructure created by them and therefore, they are liable to compensate the petitioners.

In order to quantify the compensation to be awarded, reference is placed on a Division Bench judgment of this Court rendered in ***Paramjit Kaur and others Vs. State of Punjab and others, 2008(4) R.C.R. (Civil) 772***, wherein, it has been held that compensation in such cases has to be awarded in terms of the principles of assessment applied in the case of a death in a vehicular accident. Relevant extract of the judgment reads thus:-

“18. Having held that this is a clear case of negligence, incompetent workmanship and supervision on the part of the Board and its officials, which has resulted in the untimely and sudden death of Sh. Lajja Ram, we proceed to assess the amount of compensation to which the petitioners would be entitled to in the present case. Since there is nothing in the Acts governing the transmission and supply of Electricity which regulates the grant or quantum of compensation in our considered view the well settled and accepted principles adopted by the Courts for determination of compensation to be awarded in fatal accident cases under the Motor Vehicles Act, 1988 can be adopted, as the underlying principles for determination of the quantum of compensation are the same.”

The petitioner was aged 45 years at the time of his death. He

was earning ₹18,600/- per month as is evident from salary slip (Annexure P-1). After adding 30% for future prospects, deducting $\frac{1}{4}$ on account of personal expenses, and applying the multiplier of 13, the total loss of dependency would come to ₹28,29,060/-. To this amount, another amount of ₹70,000/- is added under the conventional heads. In this way, the petitioners are held entitled to the total compensation ₹28,99,060/- (after following the principles of law laid down in *Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121* and *National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC OnLine SC 1270*).

The amount of compensation as assessed above, shall be paid by the respondents, jointly and severally, to the petitioners in equal shares, within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to the interest @ 7.5% p.a. from the date of filing the present appeal, till its realization.

Allowed in the above terms.

(JITENDRA CHAUHAN)
JUDGE

13.12.2018

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