

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

CWP No.1425 of 2016
Date of Decision: 10.05.2018

Paramjeet Kaur and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Dheeraj Mahajan, Advocate,
for the petitioners.

Mr.Ayush Sarna, AAG, Punjab.

Mr.P.S. Baath, Advocate, for
Mr.R.L. Sharma, Advocate,
for respondents No.2 to 5.

RAKESH KUMAR JAIN, J.

The petitioners are in second round of litigation as they had earlier filed *CWP No.6095 of 2015* titled as *Paramjeet Kaur and others Vs. State of Punjab and others* which was decided on 01.04.2015 with a direction to the Chairman, Punjab State Power Corporation Limited to consider and decide the detailed representation submitted by the petitioners within a prescribed period.

The averments made in the earlier writ petition was that the petitioners are the legal heirs of the deceased Amrit Pal who, after his retirement as Head Constable from the BSF in the year 2008, was running a diary and earning ₹35,000/- per month. He had allegedly lost his life by coming in contact with a snapped live electric wire when he was watering

his fields. The petitioners made a representation to the Chairman, Punjab State Power Corporation Limited on 9.12.2014 for compensation on account of their negligence which had led to the loss of the life of their sole bread winner.

Apropos, order dated 01.04.2015 passed in the aforesaid writ petition, respondent No.3 passed the speaking order on 28.8.2015 by which it was decided to pay compensation of ₹6,77,760/- applying the provisions of the Workmen's Compensation Act, 1923.

Aggrieved against the aforesaid order dated 28.8.2015, the present petition has been filed for the purpose of enhancement of compensation on the ground that in case of fatal accident, the compensation should be assessed as per the formula adopted for assessing the compensation in the cases of motor vehicular accidents. In this regard, learned counsel for the petitioners has relied upon a Division Bench judgment of this Court rendered in the case of *"Paramjit Kaur & others Vs. State of Punjab & Others"* 2008(4) Civil Court Cases 511.

It is admitted by respondents No.2 to 5 in the reply filed by them that the assessment of compensation has been made on the basis of the factor/method adopted under the Workmen's Compensation Act, 1923 which provides for fixing average income at ₹8000/- per month.

Thus, from the aforesaid pleadings, the question which arises for consideration for this Court is as to whether in the case of fatal accident, occurred due to electrocution, the respondents were justified in assessing the compensation on the basis of formula adopted under the Workmen's Compensation Act, 1923 or it should have been assessed as per the formula

being applied in the cases of motor vehicular accidents under the Motor Vehicle Act, 1988?

In order to answer this question, learned counsel for the petitioners has relied upon a Division Bench judgment of this Court rendered in the case of ***Paramjit Kaur & Ors. (Supra)*** in which it has been held that *“since there is nothing in the Act 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 quantum of compensation are the same.”*

Learned counsel for the respondents have not cited any judgment to the contrary to answer the question framed by this Court.

Learned counsel for the petitioners has also relied upon a decision rendered by the Constitution Bench of the Supreme Court in the case of ***“National Insurance Company Limited Vs. Pranay Sethi and others”*** 2017(4) RCR (Civil) 1009 for the purpose of assessment of compensation in terms of the formula adopted by the Motor Accident Claims Tribunals.

After hearing learned counsel for the parties and taking into consideration the facts and circumstances, the present petition is allowed, the impugned order dated 28.8.2015 is hereby set aside and the matter is remanded back to respondent No.3/Chief Engineer, Border Zone, Amritsar, who had passed the said speaking/impugned order dated 28.8.2015 to re-assess the compensation to be granted to the petitioners by adopting the formula used for determining the compensation in the cases of motor

vehicular accidents under the Motor Vehicles Act, 1988 as has been decided by this Court in the case of *Paramjit Kaur & Ors. (Supra)* and shall take the help/assistance from the order rendered by the Constitution Bench of the Supreme Court in the case of *National Insurance Company Limited (Supra)*. The parties are directed to appear before respondent No.3/Chief Engineer, Border Zone, Amritsar on 03.07.2018, who is further directed to decide the dispute between the parties, after affording an opportunity of hearing, if they require, and pass a speaking order within a period of one month thereafter and communicate the said order to the petitioners forthwith.

10.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*