

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

**CWP No.24030 of 2012
Date of Decision: 18.09.2018**

Jaipal

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Anil Kumar Goyal, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG Haryana.

Mr. Amrita Nagpal, Advocate,
for Mr. Lokesh Sinhal, Advocate,
for the respondents No.2 to 5.

RITU BAHRI, J. (ORAL)

This petition has been filed for issuance of direction to the respondents to compensate the petitioner as he has lost his right hand (Arm) by electrocution from the installation of respondent/department. Further prayer has been made for quashing the order/letter dated 27.07.2012 (Annexure P-6) issued by respondent department, whereby notice sent by the petitioner seeking compensation has been rejected/denied.

On 21.04.2012, the petitioner was working in his fields and was getting the wheat crop harvested with the help of combiner machine. All of a sudden, one electric wire which was passing over the fields, broke up and fell on the petitioner, due to which his right arm got badly brunt. The petitioner was taken to the Soni Hospital for treatment. Due to the accident, right arm of the petitioner was amputated by the doctor by way of surgical

operation. With regard to the incident, a complaint dated 26.04.2012 (Annexure P-1) was lodged with the police. As per petitioner, he is a poor farmer and except that he has no other source of livelihood. Consequent upon amputation of his right arm, he will face a lot of difficulty in future. His family is totally dependent upon him.

Photographs of the petitioner have been placed on record as Annexure P-2. As per case summary dated 26.04.2012 (Annexure P-3), issued by the hospital and bills (Annexure P-4 Colly.) injuries on the person of petitioner were on account of electric burns. In this regard, petitioner has served a legal notice dated 05.06.2012 (Annexure P-5) upon the respondents, which has been rejected vide impugned reply/letter dated 27.07.2012 (Annexure P-6). Hence, the present petition.

Upon notice, reply on behalf of respondent Nos.2 to 5 has been filed taking a plea that the incident was never reported to the respondents before serving the legal notice dated 05.06.2012 (Annexure P-5). The incident took place on 21.04.2012 and complaint was made on 26.04.2012 (Annexure P-1). The police did inform with regard to the alleged incident to the respondents. Moreover, a perusal of complaint dated 26.04.2012 (Annexure P-1) shows that petitioner has made a statement that he did not want to take action against any body with regard to the alleged accident. It is denied that the petitioner has spent Rs.5 lacs on his treatment. In fact, he has not been spent more than Rs.1 lac on his treatment. .

After hearing counsel for the parties, the present writ petition deserves to be allowed. Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in **State of Himachal Pradesh and**

Others Vs. Naval Kumar alias Rohit Kumar, 2017 (1) RCR (Civil) 990,

wherein the victim, who was a boy of 8 years, came into contact with high tension live wire and suffered injuries. Resultantly, both of his arms had to be amputated, which made him permanently disabled to the extent of 100%. In the said case, the High Court had granted compensation to the victim (boy) to the tune of Rs.1.25 crore, but Hon'ble the Supreme Court had reduced the amount of compensation to the extent of Rs.90,00,000/-. A perusal of the judgment shows that the FIR had been registered at the instance of mother of the child.

However, in the present case, complaint dated 26.04.2012 (Annexure P-1) has been made to the police, whereupon the concerned ASI had recorded the DDR mentioning therein that the petitioner was working in his field and all of a sudden, one electric wire (440 voltage) which was passing over the field, fell on his right arm, due to which, his arm got badly burnt. As per case summary dated 26.04.2012 (Annexure P-3), petitioner was admitted with regard to the electric burns due to connection of high tension wire in his fields. He had undergone R/E amputation of 'R' on 24.04.2012. Petitioner has placed on record medical bills (Annexure P-4 colly.) showing the expenses incurred by him on his treatment. After going through the case summary dated 26.04.2012 (Annexure P-3) and medical bills (Annexure P-4), it stands established that information given by the petitioner to the police vide complaint dated 26.04.2012 (Annexure P-1) was not wrong as he had suffered burn injury on account of electrocution. Photographs (Annexure P-2) also substantiate the aforesaid fact.

In **Dharampal Sindhal Vs. State of Haryana**, 2011 ACJ 202, a child playing on the roof was entangled in live electric wires and sustained

burn injuries leading to amputation of right arm and damage to scalp and heel. While allowing his petition, compensation to the tune of Rs.2.5 Lacs was awarded.

Vide order dated 24.05.2017, compensation of Rs.2.50 lacs has been awarded to the petitioner as an interim measure. At this stage, reference can also be made to a judgment passed by the Madras High Court in **R. Kumar vs. The Secretary to Government, Electricity Department, Government of Tamil Nadu, Secretariat, Chennai**, 2017 (1) Civil LJ 616, wherein death had occurred on account of negligence and lack of maintenance of live-wire. Deceased, in that case, was 27 years of age and the accident had taken place on 27.09.2010. Income of the deceased was taken as Rs.2500/- per month as per minimum wages. Taking his age to be, at least, 33 years more, a lump sum compensation of Rs.10,00,000/- was awarded. Thereafter, the Patna High Court in **Mostt. Jeenat Khatoon vs. The State of Bihar through the Chairman, Bihar State Electricity Board, Vidyut Bhawan, Baily Road, Patna**, 2013 (1) BBCJ 137 while awarding compensation on account of death of a farmer due to electrocution, had taken his age as 40 years. Income of the deceased was assessed as Rs.70/- per day and ultimately, compensation of RS.3,50,000/- was awarded. Further, Hon'ble the Supreme Court in **Naval Kumar's** case (supra) was considering an appeal, whereby Himachal Pradesh High Court had granted compensation of Rs.1.25 crores to 08 year old boy, who lost both his arms due to electrocution. However, Hon'ble the Supreme Court reduced the compensation to Rs.90 lakhs with interest at the rate of 6%, so that it would be sufficient to give him regular monthly income by way of interest alone.

In the present case, on 21.04.2012, petitioner suffered

electrocution and lost his right arm. He was 33 years of age at that time. Accordingly, the compensation is being assessed in view of the law laid down in the above said authorities. Income of the petitioner, as per minimum wage prevalent in 2012, is assessed as Rs.10,000/- per month. Benefit of 30 years is given to the petitioner. By doing so, amount of compensation comes to Rs.10,000/- x 12 x 30 = Rs.36,00,000/-. In addition to this, Rs.1,00,000/- are awarded towards pain and suffering and Rs.5,00,000/- for securing artificial/robotic limb and future medical expenses. Accordingly, total compensation comes to Rs.42,00,000/- (Rs.36,00,000/- + Rs.1,00,000/- + Rs.5,00,000/-).

Resultantly, the present petition is allowed and the respondents are directed to pay a sum of Rs.42,00,000/- to the petitioner as maintenance on account of loss of right arm due to electrocution by live wire, which had occurred on account of negligence and lack of maintenance by the respondents. The amount of Rs.2.50 lakhs, which has already been given to the petitioner as per interim order dated 24.05.2017, be adjusted in the total compensation. The amount of compensation be given along with interest at the rate of 6% per annum from the date of filing of petition till realization.

(RITU BAHRI)
JUDGE

18.09.2018
anil/ajp

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