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

**CWP No.17191 of 2017 (O&M)
Date of decision:18.05.2018**

Nitin

...Petitioner

Versus

State of Haryana and others

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Pardeep Sehrawat, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Puneet Jindal, Senior Advocate, with
Mr. Lupil Gupta, Advocate, for respondents no.2 to 4.

Rakesh Kumar Jain, J.

The petitioner was 8 years of age when he was electrocuted on 31.01.2017 and had lost his right arm from shoulder, all toes of right foot and one toe of the left foot. By way of the present petition, the petitioner is seeking compensation but his claim has been contested by the respondents by stating that it was the fault of the petitioner. Respondents no.2 to 4 have averred that as per the inquiry held by it, the petitioner was flying a kite on the roof of his house which is situated at the distance of about 400 meters from the place of incident. His kite got entangled with the electric wires passing behind the Panchayat Bhawan and when he tried to get free his kite from the wires, he came into contact with the electricity wire and suffered the electric shock, therefore, the incident took place on account of absolute

negligence of the petitioner and not the respondents.

Counsel for the petitioner has submitted that the respondents have not denied that the petitioner has suffered electric shock and as a result thereof, lost his various limbs and the respondents have only stated that the petitioner is not entitled to compensation due to his sole negligence. In this regard, he has relied upon a judgment of this Court rendered in the case of **Joginder Singh Chauhan and another vs. State of Haryana and others**, CWP No.17477 of 2014, decided on 15.03.2016. It is submitted that in the said case also, the injured was a 9 years child who had suffered electrocution while releasing his kite from the high tension wire.

Counsel for the respondents has otherwise relied upon two judgments of the Supreme Court rendered in the cases of **Chairman, Grid Corporation of Orissa Ltd.(Gridco) vs. Smt. Sukamani Das**, 1999(4) RCR (Civil) 174 and **S.D.O. Grid Corporation of Orissa Ltd. and others vs. Timudu Oram**, 2005(3) RCR (Civil) 804.

On the other hand, counsel for the petitioner has relied upon a judgment of the Supreme Court rendered in the case of **M.P. Electricity Board vs. Shail Kumari**, 2002(1) R.C.R. (Criminal) 433. Besides this, the petitioner has also relied upon the notification dated 18.05.2017 issued by the respondents, in which it has been provided that *“the compensation for fatal as well as non-fatal accident to a private person having age less than 16 years, shall be payable as per the provisions of the Employees Compensation Act, 1923. Since, the age factor for person having age less than 16 years is not available in the Employees Compensation Act, 1923,*

accordingly, the age factor for the 16 years (being the highest age factor) shall be considered for working out the amount of compensation. However, this compensation shall be applicable for the accident cases occurring with the electrical network of the UHBVN and not in private premises”.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the case of the petitioner is squarely covered by the decision of this Court in **Joginder Singh Chauhan's case (supra)**, in which the following observations were made:-

“There is no dispute about the manner in which the accident had occurred in which the life of a boy of 9 years was lost. Even if, the deceased was trying to release his kite from the electric wire with the iron rod, he was not aware that this act of his would ultimately take his life. It was a natural behaviour of a 9 years old boy to get his kite released from the wire with the help of an iron rod, therefore, he cannot be held to be negligent in the given facts and circumstances rather the allegation of the petitioners appears to be plausible that the wire was hanging at a low level otherwise the boy of the age of 9 years could not have reached the electric wire even with a “Saria”.”

Moreover, the respondents themselves have issued the notification for the award of compensation even if there is no fault on their part. Therefore, I am of the considered opinion that the petitioner deserves to be compensated and since he has lost one hand from the shoulder, all the toes of his right foot and one toe of his left foot because of electrocution, it would be just and expedient to award compensation of ₹10,00,000/-, which shall be deposited by the respondents in the shape of FDR in the name of the petitioner in a nationalized bank within a period of one month from the date of receipt of certified copy of this order. This amount would be available to the petitioner only after attaining the age of majority but in the

meantime, the interest accrued on the said amount is allowed to be withdrawn by the father of the petitioner for the purpose of incurring expenses on the well being of the petitioner.

With these observations, the present petition is hereby allowed.

May 18, 2018
vinod*

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No