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

**CWP No.21771 of 2015 (O&M)
Date of decision:29.05.2018**

Aman

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. D.K.Tuteja, Advocate,
for the petitioner.

Mr. Puneet Jindal, Senior Advocate, with
Mr. Varun Goyal, Advocate, for the respondents.

Rakesh Kumar Jain, J.

On 20.05.2011, the petitioner Aman, aged 8 years, along with his father Satpal Jangra, had gone to the house of his maternal uncle Yash Pal S/o Gian Prakash Khati bearing House No.553/34, Janta Colony, Rohtak. While playing at the Chaubara of the aforesaid house, he opened the window towards the main road and came into contact with a naked 11 KV high tension electricity wire, which was very close to the window as the electric pole was tilted towards the said house. Due to electrocution, the petitioner was immediately taken to the PGI, Rohtak and on 30.05.2011, his right arm upto the elbow was amputated. He remained admitted in PGI, Rohtak from 20.05.2011 to 23.06.2011.

The petitioner's father, who is allegedly a Mason Helper, represented to the respondents on 07.06.2011 for seeking compensation.

Vide Memo No.2490 dated 21.06.2011, the respondents asked the petitioner's father to submit certain documents, which were submitted by him on 01.12.2011. Since there was no reply, the petitioner's father made various representations dated 06.05.2012, 11.08.2012, 04.06.2013 and 27.02.2014 and thereafter filed an application under the Right to Information Act, 2005, in response to which, the respondents admitted vide their letter dated 20.03.2014 that the case for compensation for loss of right arm of the petitioner Aman has not been settled. The petitioner also represented before the Chief Minister Grievance Redressal System but did not get any favourable response and has, thus, preferred this petition.

In reply, the respondents have averred that the present petition is time barred as it has been filed after 4 years and 5 months of the alleged occurrence, whereas the limitation is one year in case of tortious liability. It is also alleged that even as per Section 10 of the Employees Compensation Act, 1923, the limitation is two years and that the alleged incident had occurred due to negligence of the petitioner and has relied upon a decision of the Supreme Court rendered in the case of **Union of India vs. Prabhakaran Vijaya Kumar and others**, (2008) 9 Supreme Court Cases, 527 with regard to the strict liability.

On the other hand, counsel for the petitioner has submitted that the petitioner is a child of 8 years who was not in his own house at the time of alleged occurrence and, therefore, he did not know that 11 KV high tension electricity wire was near to the window. In this regard, he has relied upon a decision of this Court rendered in the case of **Sharmita and others vs. State of Haryana and others**, CWP No.10115 of 2014, decided on

15.03.2016, which was a case of suffering electric shock and loss of life. The said decision was upheld in LPA No.1426 of 2016 titled as **Uttar Haryana Bijli Vitran Nigam and others vs. Sharmita and others**, decided on 10.08.2016.

He has further relied upon a decision of this Court rendered in the case of **Talvir Khan & Ors. vs. Union of India & Ors.**, CWP No.11338 of 2008, decided on 28.04.2009, in which the question of limitation was raised and rejected by this Court while observing that “ *the petitioners are admittedly minors and none of them has attained majority till date. The limitation period, if any, has not started running against them. Otherwise also, such like technicalities cannot impinge upon the jurisdiction of a writ court. His second contention that the petitioners' claim in any case is barred by the principles of delay and laches which are oftenly applied by a writ court, also deserves to be rejected*”. That was also a case of compensation on account of death in a railway accident.

He has further relied upon a decision of this Court rendered in the case of **Joginder Singh Chauhan and another vs. State of Haryana and others**, 2016(3) PLR 108, in which the minor came into contact with live 11 KV high tension wire which was passing near his house while he was trying to release his kite. This Court had held that it was a natural behaviour of the child and compensation was awarded.

He has further relied upon a decision of this Court rendered in the case of **Abshish @ Tanu vs. Punjab State Electricity Board and others**, 2011(4) PLR 86, in which this Court has held that safety of human

beings owes a duty to the public authority that its acts or installations do not cause any danger to life and property of its citizens and the expression of a negligent child should be discarded as these aspects are irrelevant for a child.

He has also relied upon a decision of this Court rendered in the case of **Raman vs. State of Haryana and others**, 2013(3) PLR 502 and a Supreme Court judgment rendered in the case of **M.P. Electricity Board vs. Shail Kumari**, 2002(2) SCC 162, in which it has been held that where a live electric wire snapped and fell on road due to illegal act of a stranger for pilferage purpose and the deceased came in contact with live wire and died of electrocution, even then the Electricity Board is liable to pay compensation, even though there was no negligence on its part.

Learned counsel for the petitioner has also referred to the notification dated 18.05.2017 issued by the Uttar Haryana Bijli Vitran Nigam in which it is 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”*.

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

Insofar as the first objection of the respondents in regard to delay and laches is concerned, I rely upon the decision of this Court rendered in **Talvir Khan's case (supra)**, in which it has been held that in case of a minor who had not attained the age of majority, the limitation would not start running till the age of his majority and such like technicalities cannot be an impediment in the jurisdiction of the writ court for award of suitable compensation to the victim.

The argument raised by the learned counsel for the respondents that it is mentioned in the DDR that the fault is of the petitioner, therefore, the respondents are not liable to pay any compensation cannot be accepted because it is a case where a child of 8 years has suffered injuries causing amputation of his right arm upto his elbow who had no knowledge about the intensity of the current passing through the 11 KV high tension wire and even that he would suffer any kind of injury in case he would touch the wire incidentally/accidentally. Therefore, the judgment rendered by the Supreme Court in **Shail Kumari's case (supra)** would come to the rescue of the petitioner.

After dealing with these arguments, now the question comes as to what amount of compensation should be awarded to the petitioner who had suffered 70% disability.

There is no straightjacket formula for the purpose of awarding compensation in such type of cases. This Court, in **Raman's case (supra)**, had awarded ₹60 lacs because in that case he had lost both the arms and one leg and the said compensation was upheld by the Supreme Court.

Consequently, keeping in view the facts and circumstances of the present case and also the disability of the petitioner, I find it just and expedient to award the compensation of ₹5 lacs to the petitioner with a further direction that in case the petitioner would like to have artificial limb, then all the expenses in that regard shall be borne by the respondents. The amount of compensation shall be deposited by the respondents in the FDR in the name of the petitioner in a nationalized bank within a period of 60 days 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 29, 2018
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(Rakesh Kumar Jain)
Judge