

CWP No.25303 of 2014

[1]

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

**CWP No.25303 of 2014
Date of decision:25.01.2018**

Kanwaljit Kaur and others

...Petitioners

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.D.Sharma, Advocate,
for the petitioners.

Mr. Ayush Sarna, AAG, Punjab.

Mr. Vinod S. Bhardwaj, Advocate,
for respondents no.4 to 8.

Rakesh Kumar Jain, J. (Oral)

Petitioner no.1 is the widow of Jagdeep Singh and petitioners no.2 and 3 are his minor children. They have prayed for the issuance of a writ in the nature of *mandamus* to award compensation for the death of Jagdeep Singh due to electrocution on account of negligence on the part of the respondents.

In brief, deceased Jagdeep Singh was going to the Dera of Bikramjit Singh of village Jagdev Kalan, Tehsil Ajnala, District Amritsar with a tractor-trolley loaded with sand, which came into contact with the hanging electric wire, as a result whereof not only the tractor-trolley was totally damaged but Jagdeep Singh also died at the spot. He was cremated without post-mortem. The electric supply line of village Jagdev Kalan was installed from 11 KV line to release an AP connection to one Balbir Singh S/o Murad Singh and it was energized at the time of accident but the said electric line was sagging and had touched the body of the tractor-trolley, resulting into electrocution, which took not only the life of Jagdeep Singh but also destroyed

the tractor-trolley both.

Counsel for the petitioners has submitted that as per Section 68 of the Electricity Act, 2003 (hereinafter referred to as the “Act”), it is the responsibility of the licensee to maintain the overhead transmission line in such a manner that it may not cause any kind of damage to the human being or animals' life. They have also submitted that the deceased was a healthy man of 28 years of age and was earning ₹16,000/- per month. The petitioners have also referred to two decisions of the Supreme Court rendered in the cases of **Nilabati Behera vs. State of Orissa & Ors.**, 1994(1) RCR (Criminal) 18 and **Dr. Mehmood Nayyar Azam vs. State of Chhatisgarh**, 2012(3) RCR (Criminal) 925 to contend that it is the constitutional duty of the State to protect life and liberty of its citizens.

In the reply filed by respondents no.3 to 8, it is alleged that in the peak summer time, the electricity wires/lines get elongated on account of normal physical properties and the deceased had also got his trolley elongated and because of the height of the trolley by putting iron gates/jallies, it came into contact with the electric wire for which the respondents are not responsible. It is further submitted that the petitioners did not supply copy of the FIR, post-mortem report, birth certificate, income certificate and the death certificate etc. for the purpose of compensation. However, in the reply filed by the Chief Electrical Inspector to Govt. Punjab, Patiala, the following averments have been made:-

“1. That the department of Chief Electrical Inspector, Respondent No.3 is under the administrative control of Secretary Power to Govt. Punjab and is responsible for implementation and administration of Electricity Act, 2003 & Rules and Regulations made thereunder. That the intimation regarding occurrence of

accident to Sh. Jagdeep Singh a private person of V. Jagdev Kalan of District Amritsar on 03.06.2014 was given to the office of Chief Electrical Inspector as required under Rules regarding intimation of accidents (Form and time of Service Rules, 2005) on 04.06.2014 by SDO, Harsha Chhina a functionary of Punjab State Power Corporation Ltd., Respondent No.2 vide his letter No.528 dated 04.06.2014 the relevant part of the Rule is reproduced below:-

3. Intimation of accidents- (1) If any accident occurs in connection with the generation, transmission, supply or use of electricity in or in connection with, any part of the electric lines or other works of any person and the accidents results in or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person or any authorized person of the generating company or licensee, not below the rank of Junior Engineer or equivalent shall send to the Inspector a telegraphic report within 24 hours of the knowledge of the occurrence of the fatal accident and a report in writing in Form A within 48 hours of the knowledge of occurrence of fatal and all other accidents. Where possible a telephonic message should also be given to the Inspector immediately, if the accident comes to the knowledge of the authorized officer of the generating company/licensee or other concerned. (2) For the intimation of the accident, telephone numbers, fax numbers and addresses of Chief Electrical Inspector or Electrical Inspectors, District Magistrate, police station, fire brigade and nearest hospital shall be displayed at the conspicuous place in the generating station, sub-station, enclosed sub-station/switching station and maintained in the office of the in-charge/owners of the Medium Voltage (MV)/High Voltage (HV)/Extra High Voltage (EHV) installations.
2. That on receiving an information regarding occurrence of above said accident due to Electricity, an investigation was conducted by this department as required under Section 161 of Electricity Act, 2003, the relevant part of which is reproduced below:
 161. (1) If any accident occurs in connection with the

generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.

(2) The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any license, so far as those provisions affect the safety of any person, have been complied with.

(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of Section 176 of the Indian Penal Code.

3. That Sh. Harinder Sharma and officer of this department and incharge of the area as per orders of Govt. conducted the investigation under the provision of Act, to ascertain the cause of accident and to suggest the measures to estop the reoccurrence of such mishaps in future.

4. That the officer, after visiting the site of accident and

scrutinizing the statements recorded of the concerned witnesses and others concluded in the investigation report issued vide office Memo No.5534-36 dated 02.09.2014 (copy attached as Annexure R-1) that as a result of loose sag of the 11 KV line installed for supplying power to 10 KVA (11/.4 KV) transformer for SOP to Sh. Balbir Singh S/o Sh. Mureed Singh of V. Jagdev Kalan when Sh. Jagdeep Singh of same village drove his Tractor-Trolley on a Kachha Path beneath this 11 KV line, the projected part of the trolley came in contact with the live conductor of the 11 KV line, a result of which the tractor-trolley charged and Sh. JagdeepSingh got the electric shock which proved fatal for him.

5. That the issue regarding granting compensation and the punishment to the delinquents for not maintaining the installation in accordance with the provisions of Central Electricity Authority (Measures relating to safety & electric supply) Regulations, 2010, is to be dealt with by the Respondent No.4 within three months of the receipt of the investigation report as per the Government directions.”

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

There is no dispute that the deceased died because of electrocution and the tractor-trolley was also destroyed at that time. The petitioners are the heirs of the deceased. The only dispute which has been raised by the respondents is that the deceased himself was responsible for the accident because he had raised the height of the trolley for the purpose of accommodation of more sand, which he carried for the purpose of delivery but in the affidavit filed by the Chief Electrical Inspector, he has specifically alleged that the electric 11 KV line was sagging and the deceased was driving the tractor-trolley on a kuchha path beneath this 11 KV line, where projected part of the trolley came in contact with the live conductor of the 11 KV line, as a result of which the tractor-trolley charged and the deceased got electric shock

which proved fatal for him.

Thus, in view of the aforesaid facts and circumstances, it is apparent that the death of Jagdeep Singh had occurred because of the fault on the part of the respondents who did not maintain the faulty electric lines carrying 11 KV current in such a manner that its lines may not sag or break to come into contact with humans or animals causing the loss of their lives.

Since I have decided that the respondents are at fault, now the question would be as to what compensation should be awarded to the petitioners. In such cases where there is no provisions for assessing the compensation, the Court has to fall back upon the principles of awarding compensation in case of a motor vehicular accident. The petitioners have alleged that the deceased was of 28 years of age and was earning ₹16,000/- per month but there is no evidence brought on record in that regard but keeping in view the fact that the deceased was a healthy bodied person, income of the deceased is assessed @ ₹10,000/- per month, out of which, after deducting 1/3rd amount for his personal use and expenses, the annual dependency of the petitioners upon the deceased comes to ₹80,000/- (₹6666.6x12) and while applying the multiplier of 17, being the deceased 28 years of age, the amount of compensation to be paid to the petitioners comes to ₹13,60,000/-. The aforesaid amount of compensation is directed to be paid by the respondents to the petitioners along with interest @ 6% per annum from the date of death of the deceased till its actual realization within a period of two months from the date of receipt of certified copy of this order.

January 25, 2018
vinod*

(Rakesh Kumar Jain)
Judge

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