

CWP No.24911 of 2016

[1]

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

**CWP No.24911 of 2016
Date of decision:17.04.2018**

Lakhwinder Singh

...Petitioner

Versus

The State of Punjab and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Brijesh Nandan, Advocate,
for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

Rakesh Kumar Jain, J.

The petitioner has prayed for a writ in the nature of *mandamus* seeking a direction to the respondents to pay compensation on account of unnatural death of his wife and the child in her womb due to lightning.

In brief, the petitioner has averred that he is working as a labourer at a brick-kiln. On 18.01.2009, his wife, while she was working, died because of lightning. The petitioner made an application to the Deputy Commissioner, Tarn Taran for seeking financial help alleging that he is an extremely poor person, having two small kids, aged about 3 years and 1-½ years and that his wife has died, having been struck by lightning and is not in a position to maintain his family alone. The said application was moved on 15.01.2009, on which the Deputy Commissioner passed the order on 10.02.2009 "*report immediately after verifying the facts*" and in turn, the SDM, Tarn Taran further passed the order to take immediate action. After getting the information, the Deputy Commissioner wrote to the Principal Secretary to the Chief Minister on 25.03.2010 that the village panchayat has also supported the case of the petitioner for payment of compensation and even the Minister of Rural and

Panchayat Development has also asked him to take immediate action on the application of the petitioner who is asking for compensation on account of his extremely poor financial condition but since no reply was received, therefore, the present petition has been filed by the petitioner, in which the respondents have filed their reply that no compensation can be given to the petitioner because lightning is not included in the list of natural calamities and has made a reference to the Memo No.5/4/13-6/D.M.1/3291 dated 04.03.2013, in which the following has been observed:-

“that the norms have to be applied only in the event of natural calamities specified by the Eleventh Finance Commission- “Lightening” is not included in the list. As such, it will not be possible to accede to the request of the State Government.”

Learned counsel for the petitioner has submitted that the only reason for which the respondents have declined to grant compensation is that the death due to lightning or the lightning itself is not included in the list of natural calamities. It is argued that the death caused by lightning is a common phenomena which causes casualties, more in the rural area where the farmers are in more vulnerable condition. He has further submitted that the deaths due to lightning are usually single events and only in a very rare case it does affect the people in groups like the other natural calamities viz. cyclone, drought, earthquake, fire, flood, tsunami, hailstorm, landslide, avalanche, cloud burst, pest attack, cold wave and frost etc. which affect the people at large, therefore, perhaps it has not been considered to be a natural calamity for paying compensation.

Counsel for the petitioner has referred to a Division Bench judgment of the Allahabad High Court rendered in the case of **Lakshmi Devi**

vs. Union of India and others, 2015(2) ILR (Allahabad) 514, in which the death was caused due to lightning and direction was issued to grant compensation.

On the other hand, counsel for the respondents has stuck to their stand taken in the reply and has argued that since the lightning is not declared to be a natural calamity, therefore, the application of the petitioner cannot be considered.

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

The first question which requires to be decided in this case is as to whether lightning is a natural calamity or not?

In **Lakshmi Devi's case (supra)**, the Division Bench has described the meaning of natural calamity as an event that brings terrible loss, lasting distress or severe affliction; a disaster. The natural calamity is a sudden and irresistible act of nature which could not, by any reasonable care, be foreseen or resisted or in other words, an event of the nature which cannot be predicted especially in the case of lightning. There is also a reference of the decision rendered in the case of **Transco plc vs. Stockport Metropolitan Borough Council**, in which the natural phenomenon has been explained as an event in which no human agency is involved, which is not realistically possible to guard against, which is directly and exclusive to natural causes and which could not have been prevented by any amount of foresight, plans and care.

Thus, after hearing learned counsel for the parties and taking into consideration the entire facts and circumstances, I have found that the prayer of the petitioner for grant of compensation on account of unnatural death of his wife and the child in her womb on account of lightning has been declined only

on the ground that the lightning is not considered to be a natural calamity.

In the layman words, lightening is an act of God, which means a natural hazard outside human control, which can easily be compared with earthquake and tsunami, for which no person can be held responsible and which may strike at any time without any prior warning. The lightning causes death because heavy current passes through the body, damaging several parts and largely affects the poor people of the lower strata who work in open even during the rain. Therefore, I hereby hold and held that lightning is a natural calamity which, all of a sudden, causes loss of life and it is the duty of the State to protect the human life, in terms of Article 21 of the Constitution of India and if it is not so, then at least to compensate the families who suffer the loss of their bread winners or others by way of payment of compensation from the Natural Calamities Relief Fund.

Thus, in view of the aforesaid facts and circumstances, the present petition is hereby allowed and direction is issued to the respondents to consider the case of the petitioner in the light of the fact that the lightning is a natural calamity and award appropriate compensation, keeping in view the age of the deceased wife of the petitioner, her monthly income which may be assessed by a guess work and by applying a suitable multiplier, within a period of three months, from the date of receipt of certified copy of this order.

April 17, 2018
vinod*

(Rakesh Kumar Jain)
Judge

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