

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.8547 of 2015
Date of Decision:17.04.2018

Hitender Pal

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Sanjay Vashisth, Advocate,
for the petitioner.

Mr.Vishal Garg, Addl. A.G., Haryana.

Mr.R.D. Bawa, Advocate,
for respondents No.2 to 5.

RAKESH KUMAR JAIN, J.

The petitioner is a minor, who has filed this petition through his father as a natural guardian, for seeking a direction to the respondents to pay compensation to the tune of ₹2 crores on account of loss of his both hands, one leg and toe of left leg due to electrocution.

In brief, the petitioner was born on 02.02.2002. His father is a labourer having annual income of ₹48,000/- as per the income certificate issued by the Tehsildar, Faridabad on 25.9.2013. The petitioner was studying in 6th Class in St. John's School, Sainik Colony, Sector 49, Faridabad at the time of accident. His elder brother namely, Nagender Pal, who is not even matric, is doing labour work and his elder sister, namely, Rashmi Pal is a student of B.Com. final year in K.L. Mehta Daya Nand

College, Faridabad. It is averred in the petition that the total income of the family is now ₹72,000/- per annum. The petitioner's father has constructed the house within the limits of Municipal Corporation, Faridabad in the year 2000. It is further averred that 11 KV & 440 Volt line is passing over the house of the petitioner. On 10.7.2012 at about 5:00 AM, the petitioner was accidentally electrocuted when he went to the roof of his house. He was initially taken to BKH Hospital and thereafter to Safdarjang Hospital, New Delhi. During the treatment, both the hands of the petitioner and his right leg above the knee and the toe of the left leg were amputated to save his life but he has been declared 100% disabled. The petitioner was 11 years of age at the time of the said accident. He has prayed for compensation and has relied upon a decision of this Court rendered in ***CWP No.14046 of 2012*** titled as ***'Raman Vs. State of Haryana and others'*** decided on 02.07.2013.

In the reply filed by respondents No.2 to 5, they have denied their liability on the ground that the house of the petitioner is situated at 25 feet road SGM Nagar Block-A, Faridabad 11KV line exists opposite to his house approximately 18 feet away from his house, height of 11 KV line is approximately 20 feet and there was no double circuit HT/LT found in front of the house of the petitioner. The balcony of the house was unauthorizedly constructed by the petitioner approximately 4 feet towards the street due to which the distance between 11 KV line and house of the petitioner was reduced from 7.5 feet to 3.5 feet. It is also averred in the reply that the uncle of the petitioner, namely, Sat Parkash Pal has admitted that the accident has been caused due to the negligence of the petitioner and in this regard

reference has been made to the FIR/G.D. Entry No.7(A) recorded on 10.7.2012 at Police Station SGM Nagar, Faridabad.

Reply filed by respondent No.6 is only regarding the place of incidence, admission of the petitioner in the hospital and the statement of Sat Prakash Pal in GD Entry No.16-A dated 10.7.2012 of the Police Station, SGM Nagar.

During the pendency of the writ petition, this Court had passed the following order on 19.4.2017: -

The petitioner has filed this petition for compensation on account of having lost his both hands, one leg and left feet due to electrocution on account of the alleged negligence of respondents No.2 to 5 as high voltage power wires were allowed to leave open in front of and over the house of the petitioner.

Reply has already been filed denying the liability. It is not disputed that petitioner was electrocuted on account of having come in contact with the pipe which was connected with the high tension electric wires passing from the roof of his house.

I have considered the facts and circumstances of this case and I am of the opinion that prima facie it is apparent that

there is an obligation on the part of respondents No.2 to 5 to ensure that the safety measures are adopted to prevent electrocution of any person by coming in contact with the live wires. The petitioner having received injuries on account of electrocution is not debatable. Petitioner having lost his both hands, one leg and left feet is apparent from the photographs annexure P-12. It is apparently a case of strict liability.

The petition was filed in the year 2015. It is already 4.00 p.m. The matter cannot be taken up for final decision. In the interest of justice, an interim compensation of Rs.5 lacs is ordered to be paid to the petitioner within a period of two months from today by respondents No.2 to 5, jointly or severally.

For arguments, now to come up on August 28, 2017.

In pursuance to the aforesaid order, the respondents have allegedly paid the interim compensation of ₹5 lacs to the petitioner.

Learned counsel for the petitioner has submitted that the case of the petitioner is exactly similar to the case reported as ***Raman Vs. Uttar Haryana Bijli Vitran Nigam Ltd. and others, 2015 (1) RCR (Civil) 353*** in

which the Supreme Court has awarded ₹60 lac as compensation, to be borne by the State and the Nigam and further directions have been issued as to how to utilize the said amount. It is also submitted that the order of the learned Single Bench of this Court in the case of ***Raman (Supra)*** was modified in the intra-Court appeal bearing LPA No.1631 of 2013 decided on 30.10.2013 but the order of the learned Single Bench of this Court was maintained by the Supreme Court.

Learned counsel for the petitioner has thus submitted that the case of the petitioner may be disposed of in terms of the decision rendered by the Supreme Court in the case of ***Raman (Supra)***.

On the other hand, learned counsel for the respondents has submitted that there is no fault of the respondents as the petitioner himself alleged that he touched the High Tension wire with an iron rod.

I have heard learned counsel for the parties and perused the record.

There is hardly any difference between the case of the petitioner and ***Raman (Supra)*** as the injuries suffered by both of them are exactly the same. The photographs of Raman are appended with the decision of the learned Single Bench of this Court as Appendix 'I' and the photographs of the petitioner are appended with the petition as Annexure P-12 (Colly).

There is no doubt in my mind that the case of the petitioner is fully covered by the decision rendered in the case of ***Raman (Supra)*** firstly by the learned Single Bench of this Court and then by the Hon'ble Supreme Court.

Thus, in view of the aforesaid facts and circumstances, the present petition is hereby allowed in terms of the decision rendered by the learned Single Bench of this Court and the Supreme Court in the case of ***Raman (Supra)*** and an amount of ₹5 lac, paid by the respondents as interim compensation is ordered to be adjusted while making the remaining payment of the compensation in terms of the decision rendered by the learned Single Bench of this Court and the Supreme Court in the case of ***Raman (Supra)***.

17.04.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*