

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

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*CWP No.3097 of 2017*  
*Date of Decision:25.07.2018*

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Kamaljit Kaur and others

. . . . . Petitioners

Vs.

State of Punjab and others

. . . . . Respondents

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**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

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Present: - Mr.Karan Nehra, Advocate,  
for the petitioners.

Mr.Sahil Sharma, DAG, Punjab.

Mr.M.S. Batth, Advocate,  
for respondent No.2.

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***RAKESH KUMAR JAIN, J.***

This petition is filed by the mother, widowed wife and three minor children of deceased Ram Lal for seeking compensation for the death of Ram Lal because of negligence of the Municipal Council, Sangrur.

The petitioners have averred that on 17.3.2010, the deceased was on his motorcycle and one Gurpreet Singh s/o Balwidner Singh, resident of Kishanpura Basti was following him on his motorcycle while they were returning from their duty. They were working with the Sangrur Traders (wine contractor). It was around 8.30 PM, when they reached near BSNL Park, Nabha Gate, Sangrur, motor cycle of Ram Lal, who was going a head of Gurpreet Singh, hit a half opened sewerage lid (supported by bricks) as shown in the photograph attached as Annexure P-1. There was no indication or warning around the said sewerage manhole and because it was night time,

the deceased Ram Pal could not ascertain it from a distance. He fell on the road and sustained multiple grievous injuries on his head and other parts of his body and became unconscious. He was taken to Civil Hospital, Sangrur where he was declared brought dead. The postmortem of the deceased was conducted in the Civil Hospital, Sangrur in which the cause of death has been assigned due to shock and haemorrhage as a result of injury No.1, which was ante-mortem and sufficient to cause death in the ordinary course of nature. On 18.3.2010, the Police recorded Rapat No.13, on the statement of Gurpreet Singh, who was following the deceased on his own motorcycle, while returning home from his duty, in which he categorically stated that the accident had occurred because the lid of manhole, located on the main road, was half opened by placing bricks under it. Investigation was carried out by the Police and an enquiry report was submitted by the SHO, PS, City Sangrur, on the application filed by the mother of the deceased, in which he observed as under: -

*“It is requested that the enquiry of the above number application duly enclosed herewith has been conducted by me, INSP/SHO personally. During the course of enquiry, the applicant joining in the enquiry to Surinder Pal Kaur, Brij Lal son of Ram Saran, Labh Singh son of Sujada Singh, Anil Kumar son of Krishan Lal residents of Nankiana Road, Sangrur, Jasvir Singh Insp. Sanitary Nagar*

*Council, Sangrur, recorded their statements.*

*Which are enclosed herewith duly certified.*

*From the enquiry it has been found that applicant Surinderpal Kaur's son named Rampal son of Ranjit Singh resident of Wallian and Gurpreet Singh son of the Balwinder Singh resident of Kishanpur Basti, Sangrur, those who were doing the job with the contractor, on 17.3.10 at around 8:30 PM, riding on their respective motor cycles, both were going to their houses from Patiala Gate, Sangrur. Ram Pal abovesaid was going in front of Gurpreet Singh and when he reached in front of BSNL Park out side of Nabha Gate and then due to affixing of brick under the cover of the sewerage and due to the level of the cover high, motor cycle of Ram Pal rammed therein due to which Ram Pal fell down from his motor cycle and caused injuries to him and the passers by, and Gurpreet Singh had admitted him in CH Sangrur for administering the treatment to him.*

*On 17.3.10, received one written note (Rukka) from EMO Sahib CH Sangrur that*

*patient Harpal son of Ranjit Singh resident of Wallian has been admitted in CH Sangrur in injured condition, sent I/O for taking action.*

*Whereupon, ASI Angrej Singh alongwith HC Ajaib Singh 666, reaching in CH Sangrur for taking action, recorded the statement of patient Gurpreet Singh son of Balwinder Singh resident of Kishanpura Basti, Sangrur which was attested by A.S.I. Angrej Singh. From the abovesaid statement, found the occurrence of death of Ram Pal son of Ranjit Singh Wallia due to ramming the motor cycle in cover of the sewerage which is found occurrence naturally. Regarding which took action U/s 174 C.R.P.C. The photo copy of the Rapat No.13 dated 18.3.10 of Roznamcha Police Station City Sangrur is attached herewith.*

*The death of Ram Pal had occurred in civil hospital on 17.3.10. The accident took place due to placing of the brick under the cover of the sewerage on the road, being the level of the cover high, due to ramming the motor cycle therein regarding which took action*

*U/s 174 C.R.P.C on the statement of Gurpreet Singh.*

*Regarding this matter, also joined the Sanitary Inspector Jasvir Singh of Municipal Council Sangrur in the enquiry. Who revealed that regarding this matter, a legal notice had been received in the Municipal Council Sangrur from the Advocate care of Deputy Commissioner Sahib, Sangrur reply of which has already been given by Municipal Council, Sangrur. Legal Notice and photo copies of the reply are attached herewith.*

*It is known from the Legal Notice that the applicant Shinder Pal Kaur abovesaid has to file the claim case amounting to sum of Rupees 15 lac against Municipal Council Sangrur. They are appointing the counsel for taking their legal action. No action comes to be taken on this application by the local police. Order may be passed for filing this application.”*

The said enquiry report was considered by the DSP, Sangrur, who passed an order on it, which read as under:-

*“2530/P*

*21.6.10*

*Sir,*

*Got conducted the enquiry through SHO P.S. City Sangrur. It has been found from the enquiry that action has already been taken previously u/s 174 CRPC regarding the occurrence of death of Ram Pal. The applicant has to file the claim case amounting to Rupees 15 lac against Municipal Council, Sangrur and legal notice has been given to the concerned department in this regard. There is no action to be taken by the local police. Hence there is no need for taking action at this application.*

*Sd/-  
Dy. Supdt. Of Police,  
District Sangrur*

*SEEN  
MAY BE FILED*

*Sd/-  
Sr. Supdt of Police  
Sangrur  
2.5.10“*

Learned counsel for the petitioners has submitted that the death of Ram Pal has occurred because of the lapse/negligence on the part of the

Municipal Council, Sangrur as the lid of the manhole of the sewerage, located on the main road, was kept half opened by placing bricks under it and without giving any warning/indication of the same. The deceased could not see the half opened manhole from a reasonable distance because it was night time, therefore, he hit the same, fell on the road, suffered head injuries and ultimately expired. It is also submitted that he was getting a monthly salary of ₹7950/- from his employer i.e. Sangrur Traders. He has appended a certificate in this regard with this petition as Annexure P-7.

Learned counsel for the petitioners has submitted that the petitioners are the old mother, widowed wife and three minor children, who have lost their bread winner in this accident and have claimed compensation to the tune of ₹50 lakh.

Separate replies have been filed by the respondents.

In the reply filed by respondent No.6 i.e. DSP, Sub Division, Sangrur, he has referred to the proceedings mentioned hereinabove and testified that the motorcycle of the deceased Ram Pal hit the half opened lid of the manhole located on the main road. Respondents No.1, 3 & 4 have averred in their reply that Ram Pal has died because of his own negligence because he was drunk at that time. Respondent No.2 i.e. the Municipal Council, Sangrur has averred in its reply that the writ petition has been filed after a long delay of 7 years from the date of accident. It is also alleged that whenever the sewerage is got cleaned by the Municipal Council, all precautions are taken that the manhole lids are properly placed. It was denied that the sewerage lid was kept half open and that there was no street light, therefore, the fault lies with the deceased, who did not take care.

In reply, learned counsel for the petitioners has submitted that there is no evidence that the deceased was under the influence of alcohol rather, there is an eye-witness Gurpreet Singh, who was following the deceased at the time of accident, who had categorically stated that the accident had occurred because the lid of the manhole of the sewerage, located on the main road, was kept half open by placing bricks under it by the person, who had cleaned it or was to clean the same, for his own convenience. The same is the report of the police, who had made an enquiry at the spot.

Learned counsel for the petitioners has relied upon a Division Bench decision of Kerala High Court rendered in the case of ***“Marakkar and another Vs. State of Kerala”*** 2011(7) RCR (Civil) 1250 and a decision of this Court rendered in ***CWP No.23932 of 2015*** titled as ***“Sushma Rani Vs. State of Punjab and others”*** decided on 24.2.2016.

Learned counsel for the respondents has not referred to any precedent in their favour.

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

From the facts narrated hereinabove, it is apparent that the deceased Ram Pal suffered the injuries in the accident, in the manner, stated by the petitioners and ultimately succumbed to the injuries. Enquiry in the said incidence was conducted by the Police immediately thereafter, which could not be disbelieved. The petitioners are the old mother, widowed wife and three minor children of deceased Ram Pal. In the case of ***Sushma Rani (Supra)***, this Court had awarded compensation of ₹10 lakhs because of the

death caused by a stray bull within the Municipal area. In the case of *Marakkar (Supra)*, compensation was awarded by the Court because of the death of the school going boy, who fell into a pot hole on the main road.

Thus, I am of this considered opinion that the petitioners also deserve compensation in this case. Since, the petitioners have attached the salary certificate of the deceased Ram Pal as per which he was earning ₹7950/- per month and was 30 years of age as stated, therefore, after deducting 1/3<sup>rd</sup> from his salary for personal expenses, the dependency is assessed to the tune of ₹5000/- per month and a multiplier of 16 is applied. The total amount of compensation comes to ₹9,60,000/- but another some of ₹40,000/- is added to it on account of funeral and other miscellaneous expenditure and a the total sum of ₹10 lakhs is hereby awarded to the petitioners which shall be paid by the Municipal Council, Sangrur to them within a period of two months from the date of receipt of certified copy of this order. It is further directed that in case the compensation is not paid as directed, the petitioners would be entitled to 9% interest after the expiry of the period of two months.

25.07.2018

*Vivek*

(RAKESH KUMAR JAIN)  
JUDGE

*Whether speaking /reasoned* : Yes/No

*Whether Reportable* : Yes/No