

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.8136 of 2018
Date of decision : 16.07.2018

PSPCL and another

...Petitioners

versus

Permanent Lok Adalat, Public Utility Services, Ferozepur and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: .Mr. J.S.Randhawa, Advocate, for the petitioners.

RITU BAHRI J. (Oral)

The petitioners are seeking quashing of the impugned order dated 11.05.2017 (Annexure P-1) whereby, the Permanent Lok Adalat Public Utility Service, Ferozepur i.e. respondent No.1 directed to pay Rs.1,50,000/- along with 6% p.a. to the respondent No.2 from the date of award till realization on account of mare of the applicant had died due to electric shock.

As per Award (Annexure P-1) the post mortem of the mare was conducted by Dr.Amarjit Singh, Veterinary Officer, Incharge Civil Veterinary Hospital, Talwandi Bhai, Distrcit Ferozepur on 07.04.2015 and in that post mortem report, the Doctor opined that the abovesaid Mare/Animal aged about 8 years was died due to electric shock and estimated market price of mare is Rs.2 Lakh. The incident took place on 06.04.2015 and a report was given to the police on 07.04.2015 vide Rapat No.23 dated 07.04.2015 at Police Post Talwanti Bhai, P.S.Ghall Khurd.

On notice of the application was given to respondents, respondents had appeared through their counsel and filed a written statement with preliminary objections that application was not maintainable and applicant is not entitled to any compensation keeping in view the affidavit of applicant Ex.A1 and also placed on file the photographs Ex.A2 and A3, copy of post mortem Ex.A4, copy of Rapat Ex.A5, copy of application Ex.A6. A proposal for settlement of claim was also prepared by the respondent/Court but no

settlement has been arrived at and as such, the matter been decided under Section 22 C(8) of the Punjab Legal Services Act, 1987 (amended 2002). The Lok Adalat examined the affidavit Ex.A1 and also photographs Ex.A2 and came to the conclusion and it was not disputed that mare of the applicant died due to electric shocks. The respondent/Lok Adalat has assessed and awarded the compensation as Rs.1,50,000/-.

Learned counsel for the petitioner is challenging the Award on the ground as per Annexure P-2, Electric Supply Instruction Manual, the petitioner is not liable to pay any damage/compensation if an accident took place due to snapping of electric conductor over TV Cable, or on account of the cable coming in to contact with any parts of the electrical installation which have become live for any reason. The petitioner/corporation shall not be held responsible and no liability for damages/compensation whatsoever either by network Operator or by any of their subscriber or general/affected public shall lie upon PSPCL. The Network operator alone will be held responsible for any loss or damages caused to it or to its subscriber or others in such circumstances. The network operator would indemnify and keep the PSPCL indemnified/protected against any such loss or compensation of claim being filed by any third persona against PSPCL on account of any death/injury or damage occurring as a result of act/omission of the network operator or his agent/employees/assignees. However, petitioner has placed on record Annexure P-1 to show on 30.07.2011 the meter box had been installed at City Talwandi Bahi Houses in outer pillar boxes in a proper manner by the petitioner. However, he has referred to the photographs Annexure P-3 to show that mare has died while connecting with the live wire. His final argument is that one of fencing wire touched with the meter box and mare touched the fencing wire and she died at the spot and petitioner cannot be liable to pay any damages to the applicant/respondent.

In the present case, it is admitted facts that mare of the applicant died due to electric shocks and accident was happened due to the negligence of the petitioners. As per manual 2.6.1 of Electric Supply Instructions Manual, PSPCL shall not be held responsible and no liability for damages/compensation what-so-ever either by Network Operator or by any of their subscribers or general/affected public shall lie upon PSPCL. Network

Operator alone will be held responsible for any loss or damages caused to it or to its subscribers or others in such circumstances. The Network Operator would indemnify and keep the PSPCL indemnified/protected against any such loss or compensation of claim being filed by any third person against PSPCL on account of any death/ injury or damage occurring as a result of the act/ omission of the network operator or his agent/ employees/ assignees. In the present case mare has died and it is necessary to make compensation to the owner of mare and after making payment to the third party, petitioner is liable to get the recovered from the network operators.

In view of the above, the present writ petition is dismissed. However, liberty is granted to the petitioners to get the compensation from the network operators.

16.07.2018
Anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>