

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2205 OF 2018

Kum. Mayur Samir Verma

.. Petitioner

v/s.

Maharashtra State Electricity
Distribution Co. Ltd. & Anr.

.. Respondents

Mr. Girish Agarwal for the petitioner
Mrs. Anjali Shiledar Baxi for respondent no.1
Smt. M.S. Shrivastava, AGP for respondent no.2

**CORAM : AKIL KURESHI &
S.J. KATHAWALLA, J.J.**

DATED : 17th JULY, 2019

P.C.

1. The petitioner is an unfortunate teenager, who has lost both his hands on account of a freak accident, which took place on 14th January, 2017. He was flying kite on the terrace of a building when he was struck by electric shock from a high tension line of 11 KV passing nearby the terrace. The petitioner has, therefore, claimed a compensation of Rs.2.50 crores from the Electricity Company.

2. Learned Counsel for the petitioner vehemently contended that material on record would establish gross negligence on the part of the respondent no.1 in maintaining its over head electric lines and other

connected devices. It is only on account of such gross negligence that the accident took place. He submitted that the Petitioner was 15 years of age at the time of accident and by now he is 17 years of age. He had bright academic career and future prospectus. He submitted that entertaining a writ petition in such extra-ordinary circumstances is not unknown.

3. On the other hand, learned Counsel for respondent no.1 – Electricity Company submitted that the negligence on the part of the Electricity Company is not admitted. All disputed questions need to be decided by the Civil Court. Computation of compensation, if at all payable, would also require leading of evidence.

4. We are not oblivion to fact that the Courts have under exceptional circumstances entertained writ petitions granting compensation to victims of accidents caused by negligent acts of the State Authorities. However, each case must rest on its own facts. In the present case, the petitioner would have to establish relevant facts by leading evidence. Even if the case of the petitioner is that the transmission lines were not properly maintained, that the tripping device though required to be installed as per Rules, was not in place

and that the accident took place because of flash over of the electricity because of faulty transformer, the same would have to be first established through evidence on record. For such purpose, the remedy before the Civil Court alone would be appropriate. In the present Petition, we are unable to enter into such disputed questions of facts.

5. Being rather unusual case, we would fast track the Civil Suit, if one filed shortly. The period of limitation has so far is not expired. In any case, the petitioner was bona fide pursuing his remedy before this Court. Under the circumstances, the petition is disposed of with the following directions :-

(a) If the petitioner files a Civil Suit before the competent Civil Court for compensation within a period of one month from today, the same shall be entertained on merits and disposed of preferably within a period of six months from its institution.

(b) The respondent shall take prompt steps and ensure disposal of the suit expeditiously.

6. The petition is disposed of accordingly.

(S.J. KATHAWALLA, J.)

(AKIL KURESHI, J.)