

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

**CWP No. 15780 of 2016
Date of Decision: 03.09.2019**

Purshotam Parkash and others

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Malkeet Singh, Advocate
for the petitioners.

Mr. Pawan Kumar Longia, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

1. Durga Devi (deceased) wife of the petitioner was an educated woman and was stated to be a teacher. She was M.A. B.Ed. qualified and was aged 45 years at the time of death by electrocution. She was residing with the family in a house situated in Gali No.3, Satish Colony, Fatehabad. She died of electric shock on 27.05.2014 on contact with high voltage transmission lines maintained by the Nigam.

2. The accident happened like this: she went to the 1st floor of her house for some domestic work and came into contact with 11000 KV high tension electrical wires passing above and through the colony and sagging rather low. DDR No. 48 dated 27.05.2014 was registered in Police Station, Fatehabad. The police prepared a report under Section 174 Cr.P.C.

3. It is the case of the petitioners and not seriously disputed by the respondent-Nigam that the electric line was loose and was hanging dangerously close to human habitation. The petitioner and the inhabitants of the nearby area had requested the respondent/Nigam many a times to maintain the electric line in a proper and harm free manner so that no untoward accident may happen. The Nigam did not pay heed to the request. Even a month before the fateful day, the petitioner moved an application to respondent No.2 for taking action regarding the maintenance of the electric line but no action was taken. Admittedly, cause of death is electrocution. Medical evidence supports this. It may be that the electric line was erected many years ago but constructions have come up on the ground beneath habitation in a large scale over a period of time. The petitioners built their house in the year 2008.

4. It was stated by the Nigam in their response that a projection from the house extended about 3-4 feet by the petitioners unauthorizedly and illegally. Consequently, the distance between the line and the projection was reduced to arms length. The request for shifting the line failed to bear any fruit result though the JE visited the site the same day and he had warned about the risk of electrocution due to extended projection and advised to take extra care till the work of Nigam was completed for shifting the line. Even the work had finally started of shifting the line after the project was sanctioned vide memo

No. 4499WS-52 dated 12.05.2014 by the Executive Engineer, Operations, Fatehabad.

5. Permanent Lok Adalat by the impugned order awarded a sum of Rs.3,00,000/- as compensation in favour of the petitioners and the amount has been directed to be paid within two months failing which the petitioner is entitled to recover @ 9% interest per annum on the principal amount from the date of the order i.e. 16.09.2015 till the realization of the amount.

6. In such matters, the liability of the Nigam is strict and vicarious and they are statutorily bound to keep transmission lines harmless from human contact. These aspects have been dealt with elaborately in the judgment of this Court in Raman Vs. State of Haryana and others, 2013 (3) PLR 502 as restored and upheld by the Supreme Court in Raman vs. Uttar Haryana Vidyut Prasaran Nigam and others, 2014 (14) SCALE 354 which need not be re-emphasized here in extenso except to re-state the underlying principle justifying compensation awarded in writ jurisdiction that “statutory negligence on the part of the respondents in not providing the safety measures to see that live electric wires should not fall on the roof of the building by strictly following the Rules to protect the lives of the public in the residential area” applies to this case.

7. The Nigam has not appealed against the order of the Permanent Lok Adalat and, therefore, liability is admitted. The question

is only the quantum of compensation and whether it is adequate. Compensation of Rs.3,00,000/- is much on the lower side. Complying with the principles Reshma Kumari vs. Madan Mohan & Others, (2009) 13 SCC 422 and in *Raman's* case (Supra) on principles of strict liability, the compensation deserves to be enhanced though it is not possible to apply the principles of compensation in the Motor Vehicles Act, 1988 on all fours in a case of death by electrocution. They only remain the guiding factors for an award of appropriate compensation. A just balance has to be struck between over-compensation and under-compensation. There are a large number of cases involving compensation in electrocution cases which have been noticed and dealt with in *Raman's* case (supra) and those judgments have to be applied and need not be adverted to except a few of them, ie. ; State of J&K v. Mohd. Iqbal, AIR 2007 J&K 1; Smt. Aunguri Devi vs. Haryana Vidyut Prasaran Nigam Ltd. (P&H) (DB), 2002 (2) RCR (Civil) 414; Mushtaq Ahmed v. State of J. & K., AIR 2009 J&K 29; Ramesh Singh Pawar v. M.P.E.B (M.P.), AIR 2005 M.P. 2; Paramjit Kaur v. State of Punjab (P&H) (DB), 2008 (4) RCR (Civil) 772; Dano Bai v. Punjab State, (P&H) (DB), 1997(1) PLR 414; Maya Rani Banik v. State of Tripura, (Gauhati) (DB), AIR 2005 Gauhati 64 and U.P. Power Corporation v. Bijendra Singh, AIR 2009 Allahabad 56 etc.

8. Principle of dangerous chattel expounded in *Rylands v. Fletcher* (1868) LR 3 HL 330) applies to electricity cases.

9. The petitioner has sought Rs.20,00,000/- as compensation with interest from the Permanent Lok Adalat, Fatehabad. In my view, reasonable and adequate compensation in the facts and circumstances of the case and proportional danger in contact with live wires will be Rs.10,00,000/- to the family of the deceased with interest at the rate as awarded by the Permanent Lok Adalat (Public Utility Services), Fatehabad.

10. Accordingly, this petition is partly allowed. The award is modified. The petitioners are held entitled to compensation of Rs.10,00,000/- less the amount already paid by the Nigam i.e. Rs.3,15,752/- on 15.03.2016 and interest on the balance would run thereafter till payment. Amount to be calculated and payment made within 2 months from today.

(RAJIV NARAIN RAINA)
JUDGE

03.09.2019

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