

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

**CWP-21070-2016(O&M)
Date of decision-01.04.2019**

Tarsem Singh

...Petitioner

Vs.

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Karan Nehra, Advocate,
for the petitioner.

Ms. Promila Nain, Advocate
for respondent Nos.1 to 4.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab
for respondent No.5.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a direction to the respondents to pay compensation to the petitioner, who has suffered permanent disability to the extent of 90%.

Learned counsel for the petitioner submits that on 14.05.2011, the petitioner was going to the fields on his motorcycle. When he reached near the fields, some electric wires were hanging loose and he got entangled in the said loose wires and suffered electric shock. Petitioner was removed to the hospital where he remained admitted from 16.05.2011 to 13.06.2011.

Due to the injuries suffered, his left upper limb (below elbow) and right

hand were amputated. Counsel further submits that the petitioner had also approached police station on 16.05.2012 but the police twisted the factum of the accident and obtained the Foot thumb impression of the petitioner as well as thumb impression of the father of the petitioner on blank papers and have not taken any action till date and all this was done to save the officers/employees of the respondent-department who were responsible for negligence. Thereafter, a legal notice was also sent by the petitioner to respondents but no action has been taken till date and no compensation has been granted.

Learned counsel submits that at the time of accident, the petitioner was 21 years of age and an amount of ₹2 Lakh were spent on the treatment. Civil Surgeon, Sangrur issued 90% disability certificate (Annexure P-3) on the injuries of the petitioner and 100% for the purpose of earning his livelihood. Therefore, he has prayed for grant of just compensation.

On the other hand, learned counsel for respondent Nos.1 to 4 submits that the alleged accident dated 14.05.2011 never occurred, therefore the question of negligence of the PSPCL does not arise. It is further submitted that the respondents had only come to know about the alleged accident on receipt of copy of the present civil writ petition. Counsel further submits that it is not possible that if such type of accident takes place then nobody from locality or family member or relative raised any hue and cry and will not approach the answering respondents or the concerned police station. Therefore, the petitioner is not entitled to any compensation from the answering respondents.

Learned State counsel submits that on 14.05.2011, a wireless

message from Police Station, Sunam regarding the admission of petitioner due to electric shock in Vishvas Hospital, Sunam was received. After that, ASI Om Parkash visited the hospital for recording of the statement of the injured but a written report was obtained from the doctor and the doctor declared the injured unfit to make any statement. He further submits that the injured-petitioner had put his left foot thumb impression below the statement which was read over to the petitioner, admitting the same to be correct.

Heard.

As far as the factum of accident is concerned, respondent-PSPCL has denied the same. However, a perusal of reply filed on behalf of respondent No.5, clearly shows that on 14.05.2011 a wireless message was received from Police Station Sunam regarding admission of the petitioner in Vishwas Hospital, Sunam on account of injuries sustained by him due to electric shock. In this regard ASI Om Parkash, P.S. Cheema visited the said hospital on the same day for recording statement of the injured and for conducting further proceedings. However, the doctor declared the patient unfit to make statement. On 15.05.2011, ASI Darshan Singh, P.S. Cheema, visited the hospital but the doctor again declared the injured unfit to make statement. Ultimately, on 16.05.2011, HC Harbans Singh, P.S. Cheema visited the hospital and recorded statement of the petitioner as he was declared fit by the doctor to make statement. On 14.05.2011, he was called by Chhipa S/o Bikkar Singh R/o village Sheeron that they have to go to Cheema. Thereupon, on his motor cycle, he was going to the fields of Chhipa and when he reached near his fields, then the electric loose wires were hanging on the road due to fast blowing winds. He raised the wires to

cross under them when he suffered electric shock. His hands were badly wounded then Chhipa and other persons got him admitted in Vishvas Hospital, Sunam and his treatment is going on. This incident has taken place all of sudden and accidentally and no one is responsible or at fault in this regard nor he wants any action to be taken against anybody.

It has further come in the reply that the statement made by the petitioner was duly corroborated by his father Nirbhai Singh. The statements so made by the petitioner and his father were recorded as DDR No.29 dated 16.05.2011 at P.S. Cheema. In this background, the stand of the respondent-corporation that no accident as alleged by the petitioner ever took place much less on account of negligence of the Corporation is negated and it is proved that the petitioner suffered serious injuries in the accident which took place on 14.05.2011.

Once the factum of accident is proved, the Court would now proceed to determine the compensation to which the petitioner is entitled. In order to quantify the compensation to be awarded, reference is placed on a Division Bench judgment of this Court rendered in ***Paramjit Kaur and others Vs. State of Punjab and others, 2008(4) R.C.R. (Civil) 772***, wherein, it has been held that compensation in such cases has to be awarded in terms of the principles of assessment applied in the case of a death in a vehicular accident. Relevant extract of the judgment reads thus:-

“18. Having held that this is a clear case of negligence, incompetent workmanship and supervision on the part of the Board and its officials, which has resulted in the untimely and sudden death of Sh. Lajja Ram, we proceed to assess the amount of compensation to which the petitioners would be entitled to in the present case. Since there is nothing in the Acts governing

the transmission and supply of Electricity which regulates the grant or quantum of compensation in our considered view the well settled and accepted principles adopted by the Courts for determination of compensation to be awarded in fatal accident cases under the Motor Vehicles Act, 1988 can be adopted, as the underlying principles for determination of the quantum of compensation are the same.”

In case of ***Raj Kumar v. Ajay Kumar, 2011(2) R.C.R. (Civil)***

101 : (2011) 1 SCC 343, the Supreme Court considered a large number of precedents and laid down the following principles for computation of compensation in injury cases:-

"General principles relating to compensation in injury cases

4. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (***See C. K. Subramonia Iyer v. T. Kunhikuttan Nair - AIR 1970 SC 376, R. D. Hattangadi v. Pest Control (India) Ltd. -***

1995 (1) SCC 551 and Baker v. Willoughby - 1970 AC 467).

5. The heads under which compensation is awarded in personal injury cases are the following:- Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii) - depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of nonpecuniary damages - items (iv), (v) and (vi) - involves determination of

lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/ disability suffered by the claimant and the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability – item (ii)(a). We are concerned with that assessment in this case."

It has come on record that on account of the injuries sustained by the petitioner in the accident, the petitioner has suffered permanent disability to the extent of 90% and 100% disability (Annexure P-3) for the purpose of earning his livelihood as his left limb (below elbow) and right hand were amputated. The petitioner was a young boy of 21 years of age on account of the injuries suffered in the accident, he has not only suffered loss of education but has also lost future prospectus like avenues of service. Considering the fact that his both hands were amputated he will require help of an attendant throughout his life. There is no proof regarding income of the petitioner, therefore, taking the petitioner as an unskilled labour, the notional income of the petitioner is determined as Rs.4432/- per month i.e. the minimum wages prescribed in the State of Punjab for the relevant period. After making an addition of 50% on account of future prospects, the amount comes to Rs.6648/-. The petitioner being 21 years of age at the time of accident, the multiplier of 18 would be applicable. In this way, the compensation under the head 'loss of income would come to Rs.6648/- X 12 X 18 =14,35,968/-. An amount of Rs.1,00,000/- is granted towards special diet whereas an amount of Rs.3,00,000/- towards attendant charges. Another amount of Rs.1,00,000/- is granted towards transportation and pain and sufferings. An amount of Rs.2,00,000/- is granted towards loss of future

enjoyment in life and loss of marriage prospects. In support of his claim, the petitioner has also placed on record payment receipts Annexure P-2 (Colly) amounting to Rs.1,42,261/-. The Court has perused the same which appear to be genuine.

In this way, the total amount of compensation comes to Rs.14,35,968 + Rs.1,00,000/-+Rs.3,00,000/-+Rs.1,00,000/-+Rs.2,00,000/-+Rs.1,42,261=22,78,229/-.

As far as the liability is concerned, it has already been proved that the petitioner suffered serious injuries including amputation of both hands after coming into contact with live wires hanging through the road. The respondent-Corporation being the service provider is, therefore, held liable to pay the compensation as quantified above, within a period of three months from the date of receipt of a certified copy of the judgment with interest @7.5% per annum from the date of filing the instant petition.

The writ petition is allowed in the above terms.

01.04.2019
ps-I

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No