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

**CWP-29918-2017**
**Date of Decision:06.11.2019**

Ramprasad Yadav ...Petitioner

Versus

Punjab State Power Corporation Limited and others ...Respondents

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

Present: Mr.Govind Rana, Advocate for
Mr.Harkesh Manuja, Advocate
for the petitioner

Ms.Anu Pal, DAG Punjab

Mr.Harsimran Singh Sitta, Advocate
for respondents No.1, 3 and 4-PSPCL

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**RAJIV NARAIN RAINA, J. (ORAL):**

**1.** Through this petition, the petitioner has sought for a writ in the nature of mandamus directing the respondents/State to award compensation to the petitioner @ Rs.25 lakhs on account of untimely death of the son of the petitioner due to electrocution. Negligence of the respondents in maintaining harmless the high tension wires is attributed. The date of accident leading to death on the spot is 26.10.2017.

**2.** The argument that Punjab State Power Corporation Limited (for short, "PSPCL") had neither prior notice nor knowledge of the alleged unauthorised construction from the house-builder beneath the transmission lines as required by Section 82 of the Indian Electricity Act, 2003 is noticed only to be rejected, in view of the statutory duties cast on the supplier of energy to keep high voltage transmission wires harm free and above human

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contact especially when the factum of death by electrocution is not disputed by the PSPCL. Medical evidence corroborates the cause of death by electrocution. This type of defence was rejected by this Court in case "Raman vs. State of Haryana and others", 2013(3) ACC 570 and endorsed by the Supreme Court in appeal.

**3.** The house, where the son of the petitioner died of electrocution falls in Singha Devi Colony, Naya Gaon, which is a bustling township adjoining Chandigarh and lies behind the Punjab Engineering College (PEC), Chandigarh. The transmission lines may have been drawn in 1995 as submitted by learned counsel for PSPCL, but the strict liability to keep them free from human contact has not been discharged by them over the years. The lines sag to dangerous lows. Unfortunately, it was only after this tragic accident that wisdom dawned on PSPCL and they, I'm told, have shifted the high tension wires to safe position. The droop was dangerously low even to keep a single storey construction free from accidental harm that may be to caused to an unwary person who had not trespassed on the roof. The photographs attached with the petition showing the dead body of the victim on the roof at the time of accidental contact suggest the transmission line was within arms reach of the deceased painter who had been called by the owner's for painting his house.

4. I had occasion to deal with a case of compensation for death of the husband of the petitioner by electrocution awarding Rs.30 lakhs as compensation in Rubi & Others v. State of Haryana & Others, CWP 8105 of 2017 decided on 26.09.2019 in somewhat similar strain on the broad principles. It is not disputed that PSPCL is the sole supplier of energy with monopoly in Punjab and has given domestic electricity connections to

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hundreds of residents of the colony and in defence it has not been averred in the written statement that the owner of the house on whose roof the death occurred did not have an electric connection, or for that matter none of the houses/constructions falling beneath the high tension wires also did not have any electric connection.

5. If the entire row of buildings had an overhead 11 KV line above them, then those should have been removed long before the colony expanded to its present size. For its dereliction of duty, the PSPCL is vicariously and strictly liable to compensate by reason of want of safeguards and in maintaining constant vigil of its high tension wires with reference to its statutory duties enjoined by Section 68 of the Indian Electricity Act, 2003 and Rules 29, 44 to 46, 59 and 91 of the Indian Electricity Rules, 1956 as discussed elaborately in *Raman* case and, therefore, the liability remains joint and several upon the PSPCL, it's agents and functionaries responsible for upkeep of transmission lines and the State of Punjab, the license giver to bear the reasonable liability assessed and determined by the Court for its defaults.

6. In defence of the action and fore repudiation of the claim, it is emphatically submitted by counsel on behalf of PSPCL that the Corporation does not gave any electricity connections and meters to unauthorized constructions. No material has been placed on record for the Court to believe this bald assertion as a factor to deny the claim or that the construction was an illegal one, without any evidence of the property falling within or outside the *firni* of the village. The written statement does not speak of any of this. Thus, a firm finding cannot be readily returned without any supporting substance or form. After all, the place of death is not the roof

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of an isolated house. The Court takes judicial notice of many illegal and unauthorized colonies in the vicinity of Chandigarh and elsewhere in Punjab, where domestic electricity connections have been willingly given by the respondent Corporation to owners and continue to be given to the residents with gay abandon. And that such colonies have been regularized from time to time on political considerations and vote gathering.

7. If the PSPCL is blind to its mandatory protocol and regimen codified in the relevant electricity law in the Act and the rules framed thereunder and charges tariff for use of electricity by the residents of the colony and levies heavy penalties for unauthorized use and theft of electricity, then it must be compelled to bear the cost of the consequences of wilful departures from the established norms. There is no other way for the Court to offer solace to a disconsolate father for the loss of an earning hand in his youth, a working son, except in terms of money. The Corporation woke up too late to shift the life threatening power lines from overhead and within arm's reach. They did so after the event.

8. It may be noticed that the owner of the house- respondent No.5 employer of labour remains un-served in the petition as he was impleaded by Court orders, but that should not detain us in deciding the case on merits except to say that no opinion can be expressed about his liability in the present proceedings, which remain open.

9. Accordingly, this petition is allowed against the Corporation. Having regard to all the factors and the principles of law in the Judgment of the Supreme Court in Raman Vs. Uttar Haryana Bijli Vitran Nigam & Others, (2014) 15 SCC 1, which need not be reiterated being the settled law in electrocution cases. Hence, in the facts and circumstances of the case, this

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Court considers it fair, just and reasonable to grant relief of Rs.20 lakhs as proper compensation to the petitioning father of the deceased, which is Rs 5 lakhs less than the amount claimed by the petitioner, for the tragic loss of his son. Paying first, the PSPCL will have a right to recover proportionate damages from the owner of the property only in proceedings before the civil Court, if filing is advised. The owner will have all right to his defences in law as available to him, both on personal liability and *inter se* sharing of quantum of compensation awarded.

10. The payment of the sum awarded be made within two months from today, failing which the petitioner will be entitled to take home interest on the principal awarded @ 9% from the date of filing the petition till the date of actual payment.

**06.11.2019** **(RAJIV NARAIN RAINA)**
***neenu*** **JUDGE**

Whether speaking/reasoned Yes
Whether reportable- Yes/No

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