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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 24.08.2020

+ W.P.(C) 2303/2016

MEERA & ORS.

..... Petitioners

Through Mr.Siddharth, Adv.

versus

MCD & ORS.

..... Respondents

Through Mr. Mohd. Danish, Adv. for respondent No.1.

Mr.Arn timer Sanyal, Advocate for respondent No.2

Mr.Sanjeev Uniyal and Mr.Dhawal Uniyal, Advocates for respondent No.5.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. This writ petition is filed by the petitioners who are the legal heirs of Late Sh.Manish (aged 23 years) who lost his life on 31.08.2014 as a result of alleged gross negligence on the part of officials of respondent No.1-Municipal Corporation of Delhi (Now, North Delhi Municipal Corporation), Electric Division-I, Kingsway Camp Delhi and respondent No.2-TATA Power DDL on account of electrocution.

2. The case of the petitioners is that Late Sh. Manish lost his life on 31.08.2014 on account of electrocution when personnel of respondent No.1 directed the

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deceased Manish to pull the handle while installing a High Mast Light Pole which was to be electrified by respondent No. 2. The High Mast Light Pole touched a passing unprotected wire maintained by respondent No. 2 on account of which Sh.Manish got an electric shock and fell down on the road. He was taken to BJRM Hospital and later, to Dr. BSA Hospital where he was declared brought dead.

3. It is the case of the petitioners that they have suffered great pain, agony, mental torture and shock due to untimely death of their elder son aged about 23 years. They have also lost love and affection which cannot be compensated in money.

4. The police who were also called registered a FIR bearing FIR No.503/2014 under section 304A of the Indian Penal Code at P.S.Mahendra Park against the accused persons i.e. officials of respondent No. 1.The petition also points that on 11.08.2015, petitioner No. 1 moved an application calling for a status report from the police officials (The name of the court is not mentioned). A status report was filed by the police. The status report states that as per the statement of the complainant-Sh. Ravinder Kumar, he along with his friends was standing in front of House No. I-2000 when the workers of MCD were installing a High Mast Street Light. Sh.Manish Kumar was also standing there. One person out of the MCD personnel requested Sh.Manish to pull the handle fixed on the pole so that the light could be uplifted. While Manish was following the directions, the circle of High Mast Light touched an overhead cable wire as a result of which Sh.Manish fell down on the road. He was immediately taken to the hospital where he was declared brought dead. An appropriate FIR under Section 304A IPC was registered. Post Mortem report confirms that the cause of death was electrocution. During

investigation, the concerned MCD Department on 05.06.2015 gave a reply that the spot was being looked after by a private agency, namely, M/s. Perfect Electric Work on contract basis. Therefore, the report states that a notice was given to M/s. Perfect Electric work. The said Perfect Electric Work provided a copy of the agreement and informed that the contract was from 05.03.2014 for a period of only two months and under the agreement, they have completed that period. The incident is dated 31.08.2014. This report is dated 28.08.2015. It is clear that despite lapse of one year from the incident, the police have been dilly dallying and have not been able to even complete the investigation.

5. A counter-affidavit has been filed by respondent No. 1 on behalf of North Delhi Municipal Corporation. Preliminary objections have been taken including that the petitioners have approached National Human Rights Commission and hence, the writ petition would not lie. It is also pleaded that there are disputed questions of facts stated in the writ petition which cannot be entertained in the present writ jurisdiction. It is further pleaded that the contract for installing of 4 number Semi High Mast Light Poles was awarded to M/s. Perfect Electric Work on 05.03.2014. It was the M/s. Perfect Electric Work who was working at the site when the mishap occurred. The incident was informed by the site supervisor of the contractor to the concerned J.E. (Elect) of the answering respondent. It is further claimed that a FIR was registered where it was alleged that North DMC employees had asked Sh.Manish to pull the handle of lever installed on the pole but that allegation is not correct as it was a Sunday and a weekly rest day. No official from North DMC was at the site. The work was being done by the contractor/his employees and not by North DMC employees. It is further claimed that the

contractor had to get the site drawing approved from the Department but the same was never submitted by the contractor. The work was started by the contractor without an approved drawing. The contractor has violated the tender conditions. Further, it is claimed that the contractor was supposed to carry out the work in accordance with CPWD specifications and Indian Electricity Rules, 1956 which he has violated.

6. It is further stated in the reply that the site was inspected by Sh. Umesh Kumar Rai, Electrical Overseer in the presence of Sh. Bhanwar Lal, Asstt. Sub Inspector, PS Mahindra Park, Delhi. It was observed that the High Mast Light Tower had been erected just close to an electric pole of an already existing 3 phase, 11 kv overhead line of TPDDL in front of House No. I-2000, Jahangir Puri, Delhi. It was observed that the installation of the High Mast Light Pole had been done in close proximity of the 11 kv overhead line without maintaining the safety clearances and without complying with the provisions of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010. It is claimed relying upon the report of the Electrical Inspector that the lapse was on the part of M/s Perfect Electric Work. It is further stated that the said contractor – M/s. Perfect Electric Work has already been debarred from tendering for North DMC for one year and a circular dated 09.06.20216 was accordingly issued.

7. Respondent No. 2 has also filed a reply. Respondent No. 2 in its reply stated that the ZSO of respondent No. 2 was patrolling the Mahendra Park, Jahangir Puri area after receiving a no current complaint. It is only then that it was gathered that an accident had occurred. It was found that the officials of MCD were erecting a new Semi High Mast Light Pole and fixture near a high tension line of respondent

No. 2. Respondent No. 2 was never informed about such work being carried out by MCD or any agency. The dangerous act done by the deceased only on the instructions of respondent No.1 personnel had caused tripping of 11 kv network which resulted in the unfortunate incident. Respondent No.2 has also filed a complaint with SHO, Mahindra Park, Jahangir Puri on 31.08.2014.

8. It is further pleaded that the unfortunate incident occurred due to the unauthorized act of installing High Mast Light Pole by the staff of respondent No. 1 without seeking permission from the Inspector or intimating respondent No. 2 which is in flagrant violation of Rules 61, 63 and 64 of the Indian Electricity Rules, 1956.

9. Respondent No. 2 also seeks to rely upon the judgments of the Supreme Court in the case of ***Chairman, Grid Corporation of Orissa Ltd. Vs. Sukamani Das & Anr., (1999) 7 SCC 298*** and ***SDO, Grid Corporation of Orissa Ltd. Vs. Timudu Oram, (2005) 6 SCC 156***.

10. Unfortunately, respondents No. 3 and 4, namely, Delhi Police officials of PS Mahendra Park, New Delhi have not filed any reply.

11. I have heard learned counsel for the parties. Learned counsel for the parties have essentially reiterated their pleas raised in the pleadings.

12. I may look at the report of the Electrical Inspector who is the statutory authority under The Electricity Act. This Statutory Report narrates the series of facts leading to the unfortunate incident. The said report dated 02.06.2015 notes that a High Mast Light Tower had been erected close to an electric pole of an already existing 3-phase, 11 kv overhead line of TPDDL in front of House No. I-2000, Jahangir Puri, Delhi. Relevant part of the said report reads as follows: -

“On 10/09/2014, Sh. Umesh Kumar Rai, Electrical Overseer inspected the place of occurrence of the said accident in the presence of Sh. Bhanwar Lai, Asstt. Sub-Inspector, Police Station Mahendra Park, Delhi. At the time of inspection it was observed that a high mast light tower has been erected just close to an electric pole of an already existing 3-phase, 11kV, overhead line of TPDDL, in front of house no. I-2000, Jahangir Puri, Delhi. A metallic ring frame, with 06 no. light fittings, was found hanging with the help of wire ropes around the tower which could be moved vertically from top to bottom of the tower. It has been reported that, at the time of the accident, this ring frame was being raised from bottom to the top of the tower when it came in contact with the live electrical installation of the overhead line and resulted in charging of the metallic body of the ring frame and high mast tower.

It was observed that the installation of the high mast light pole had been done in close proximity of the 11 kV overhead line of TPDDL without maintaining the safety clearances from it.

The following provisions of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 were not found complied with by the agency who had installed the high-mast light tower:-

1. The high-mast tower light had been erected just close to an electric pole of an already existing 3-phase, 11 kV, overhead line of TPDDL without giving intimation to the owner of the overhead line and the Electrical Inspector as required under provisions of regulation 61 (1) and (6).”

13. It is an admitted fact by the respondents and by the report of the Electrical Inspector that the accident had taken place on account of the act of trying to move up a metallic ring frame with 6 number light fittings to the top of the tower. This ring frame while being pulled up came in contact with live overhead 11 kv line and

resulted in charging of the metallic body of the ring frame and the high mast tower. The deceased Manish got electrocuted while assisting the concerned officials in pulling this light fitting. Manish was only a by-stander and a young boy of 23 years who on the request of the concerned officials assisted them and got electrocuted on account of the said act. On these facts, there is no dispute.

14. Respondent No. 1 North DMC however seeks to transfer the blame on its contractor – M/s. Perfect Electric Work. It is claimed that pursuant to a tender, the work was awarded to the said contractor for 4 No. Semi High Mast Pole including one near house No. I-2000, Jahangir Puri on 05.03.2014. A copy of the said work order has been filed.

15. It is further claimed that nobody from the North DMC was involved in the installation of the pole or to lift upward the ring fixed with lights. The accident took place on a Sunday when no official of North DMC is working, being a holiday. It is further claimed that the contractor was to carry out the work in accordance with CPWD specifications and Indian Electricity Rules which he has violated. It is further stated that the contractor had to get the site drawing approved from the Department but the same was never submitted by the contractor to the Engineer-in-Charge. The work was started by the contractor without an approved drawing. Hence, the contractor has violated the tender conditions.

16. Hence, essentially respondent No. 1 is seeking to shrug off the blame on the contractor saying that the contractor was responsible for compliance of the statutory terms and conditions. I may deal with the said defence of respondent No.1.

17. Along with the writ petition, a status report has been attached by the

petitioners which was filed by the police in a proceedings initiated by the petitioner. In the said status report, the stand of the contractor – M/s. Perfect Electric Work is clearly noted that the contract was for a period of two months from 05.03.2014 and that the agreement had been completed much before the date of the accident, namely, 31.08.2014. The counter-affidavit of respondent No. 1-North DMC is silent about the aforesaid averment made in the status report which is attached to the writ petition. Respondent No. 1 has merely attached with the counter-affidavit a copy of the agreement/work order issued to M/s. Perfect Electric Work dated 05.03.2014. A perusal of the said agreement shows that the work was awarded on 05.03.2014 while the accident took place almost 6 months later i.e. on 31.08.2014. Clause 3 of the work order that is placed on record by respondent No. 1 states that the contractor shall start work at once and the time allowed to carry out the work as entered in the tender shall be reckoned from the DOS. No details are forthcoming about the tenure of the contract. Other than making a bald statement that the work in question of installing the ring frame was being done by the contractor, no record has been filed. It was for respondent No. 1 to have produced the documents within its possession and power, namely, the bills of M/s. Perfect Electric Work, if any, received/processed/paid. The progress of the work that took place after 05.03.2014 till 31.08.2014. The correspondence that took place with its contractor. Nothing has been placed on record. Simply, a bald averment is made that the work was being carried out by the said contractor and no worker from respondent No. 1 was present when the work was being done. Such a bald plea bereft of material facts/details cannot be accepted.

18. That apart, a perusal of the work order dated 05.03.2014 shows that it relates

to installation of 4 number Semi High Mast Poles near four locations including house No.I-2000, Jahangir Puri. The location of the Mast Pole has itself been given i.e. near House No. I-2000. The fact that this was close to an 11 kv High Tension Overhead cable would have been known to respondent No. 1. Further, as per the report of the Electrical Inspector as noted above, the installation of the High Mast Light Poles had already been done in close proximity of the 11 kv overhead line without maintaining the safety measures. On 31.08.2014 what was being done was installation of a metallic ring frame of 6 number light fittings. It is obvious that the installation of the High Mast Light Poles without maintaining safety clearances and in close proximity with the overhead 11 kv line had already been done some time back. In fact, as the contract was for installation of four such poles, it is possible that all the four poles had been erected but respondent No. 1 does not in the counter-affidavit mention any word about this. It is inconceivable that respondent No. 1 was ignorant of the installation of the High Mast Light Poles which had been installed in violation of statutory provisions. No steps were taken to stop this illegal act or rectify the same.

The above facts show that the location of the High Mast Poles was determined by respondent No.1. The pole in question was, as per the tender, located near the house I-2000 Jahangir Puri. The location is in close proximity of the 11 kv overhead line. This installation was without maintaining the safety clearances from the 11 kv overhead line. It was the decision of respondent No. 1 to install the pole at that site which action was in breach of the safety norms/rules.

It was the primary responsibility and liability of respondent No1 North DMC to ensure that the installation of the High Mast Light Poles and the metallic ring frame is done as per the statutory rules and safety standards. Respondent No. 1 North DMC has been grossly negligent in fulfilling its functions. In the stated facts, respondent No. 1 cannot be permitted to blame the contractor as is sought to be done.

19. The issue arises as to whether in these facts this court can grant relief to the petitioners. In this context reference may be had to the judgment of the Division Bench of this court in the case of *Fatima &Ors. Vs. National Zoological Park &Ors., (2016) 232 DLT 31 (DB)* relevant paras of which read as follows:-

“10. The issue which first seeks answer from this court is as to whether in these facts this court could grant compensation to the petitioners in the present writ petition. The legal position in this regard may be looked at. The Supreme Court in the case of *Nilabati Behera Alias Lalita Behera v. State of Orissa, (1993) 2 SCC 746* was dealing with the issue of award of compensation in proceedings under Article 32/226 of the Constitution. The court noted that the remedy is available in public law based on strict liability for contravention of fundamental rights. The court further held that this right is distinct from and in addition to the remedy in private law for damages for the tort resulting from contravention of the fundamental rights. The court also held that the Supreme Court and the High Courts have wide powers under Article 32 and Article 226 respectively to forge new tools that may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution. The relevant portion of the judgment reads as follows:-

“22. We respectfully concur with the view that the court is not helpless and the wide powers given to this Court by Article 32, which itself is a fundamental right, imposes a

constitutional obligation on this Court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enable the award of monetary compensation in appropriate cases, where that is the only mode of redress available. The power available to this Court under Article 142 is also an enabling provision in this behalf. The contrary view would not merely render the court powerless and the constitutional guarantee a mirage, but may, in certain situations, be an incentive to extinguish life, if for the extreme contravention the court is powerless to grant any relief against the State, except by punishment of the wrongdoer for the resulting offence, and recovery of damages under private law, by the ordinary process. If the guarantee that deprivation of life and personal liberty cannot be made except in accordance with law, is to be real, the enforcement of the right in case of every contravention must also be possible in the constitutional scheme, the mode of redress being that which is appropriate in the facts of each case. This remedy in public law has to be more readily available when invoked by the have nots, who are not possessed of the wherewithal for enforcement of their rights in private law, even though its exercise is to be tempered by judicial restraint to avoid circumvention of private law remedies, where more appropriate.

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24. The above discussion indicates the principles on which the Court's power under Articles 32 and 226 of the Constitution is exercised to award monetary compensation for contravention of a fundamental right.....”

11. In *Air India Statutory Corporation v. United Labour*

Union, (1997) 9 SCC 377 the Supreme Court held that there is no limitation or fetters on the powers of the High Court under Article 226 of the Constitution except self-imposed limitations. The Supreme Court held as follows:-

“59. The founding fathers placed no limitation or fetters on the power of the High Court under Article 226 of the Constitution except self-imposed limitations. The arm of the Court is long enough to reach injustice wherever it is found. The Court as sentinel in the *qui vive* is to mete out justice in given facts. On finding that either the workmen were engaged in violation of the provisions of the Act or were continued as contract labour, despite prohibition of the contract labour under Section 10(1), the High Court has, by judicial review as the basic structure, constitutional duty to enforce the law by appropriate directions. The right to judicial review is now a basic structure of the Constitution by catena of decisions of this Court starting from *Indira Gandhi v. Raj Narayan* to *Bommai's case*. It would, therefore, be necessary that instead of leaving the workmen in the lurch, the Court would properly mould the relief and grant the same in accordance with law.”

20. I may note that the above judgment was upheld by the Supreme Court in the case of ***Fatima & Anr. Vs. National Zoological Park &Ors.***, Civil Appeal No. 9975/2018 dated 25.09.2018.

21. Reference in this context may also be had to a judgment of a Coordinate Bench of this court in the case of ***Baby Anjum Thr. her Natural Guardian &Anr. Vs. The Chief Executive Officer, BSES Rajdhani Power Ltd., (2012) 189 DLT 1.*** That was a case in which an injury (amputation of hand) was suffered by petitioner No. 1 aged 14 years allegedly owing to electrocution attributable to the negligence

of the respondent. In the facts, the court noted that the respondent had installed a transformer on the electric pole just adjoining to the parapet wall of the roof of the house of the petitioner. In spite of requests, the said transformer was not removed. On 02.03.2007 the petitioner then aged 4 years while playing on the roof came in contact with the said transformer and suffered an electric shock which threw her off the roof. In those facts, this court held as follows:-

“5. Once the facts are not in dispute, the negligence of the respondent is writ large and speaks for itself. Considering that the petitioner No.1 is a girl child, has to lead her entire life with the handicap aforesaid which has been evaluated by the Safdarjung Hospital also at 85%, I feel compensation of Rs.7.5 lacs to be appropriate.”

22. What follows from the above judgments is that the High Court in exercise of its power under Article 226 of the Constitution of India has no limitations or fetter on the powers except self imposed limitations. The court has the power to award monetary compensation in appropriate cases. Where the negligence of the state/state authorities is clear from the record, appropriate compensation to the family of the victims can be awarded.

23. At this stage, I may also note a judgment of a Division Bench of this court in the case of ***Rajeev Singhal & Anr. vs. MCD (East Delhi Municipal Corporation) & Anr., 2018 SCC OnLine Del. 11518***. That was a case of a 14 year old boy who was a victim of an unfortunate accident. While playing cricket, the child was required to fetch the ball, when it went to a place in one corner of the park under a high mast light pole. While picking up the ball, his hands touched an electric cable and he got electrocuted and died on the spot. There was a dispute in that matter pertaining to the liability as the two authorities, namely, the East Delhi Municipal

Corporation and the electricity distribution company-BSES were squabbling as to who was responsible for the accident. The Court held as follows:-

“19. From the aforesaid, it is clear that merely because there is an *inter se* dispute between the respondents, it would not disentitle the petitioners from claiming the relief under Article 226 of the Constitution of India as negligence resulting in breach of Fundamental Rights is held to be established. Even though the judgment in the case of *Varinder Prasad* (supra) has been rendered by Single Judge of this Court but the said judgment refers to various judgments not only of Supreme Court but also of this Court and once in this case the finding recorded is to the effect that the accident took place because of negligence in the matter of maintenance of electrical equipments and it is also proved that the accident was a consequence of such negligence, merely on account of *inter se* dispute between the parties, namely, respondent No. 1 and respondent No. 2, in our considered view, the petitioner could not be non-suited or their petition is dismissed. Once the factum of accident having occurred resulting into death of the child and the accident being a consequence of negligence are established, the learned writ Court should have, in our considered view, proceeded to assess the compensation and awarded it to the appellants instead of dismissing the writ petition. In fact, the *inter se* dispute on facts between the respondents cannot be a ground for dismissing the writ petition. On the contrary, as has been done in various cases including the case of *Varinder Prasad* (supra), the Court should have held both the respondents jointly and severally liable for payment of compensation, imposed 50% liabilities on them and thereafter left it to them to work out their *inter se* dispute, particularly so when both the respondents are functioning under the control of the Government.”

It would follow that merely because respondent No. 1 is trying to shrug off its blame and trying to put the onus on its contractor cannot be a ground to hold that there is any dispute involved. However, the facts of this case are a bit

different. In the facts as already noted above, the negligence of the respondent No. 1 is apparent on the face of the record.

24. Both the respondents have heavily relied upon the judgments of the Supreme Court in the case of *Chairman, Grid Corporation of Orissa Ltd. Vs. Sukamani Das & Anr. (supra)* and *SDO, Grid Corporation of Orissa Ltd. Vs. Timudu Oram (supra)*.

25. I may now look at the aforementioned judgment of the Supreme Court in the case of *Chairman, Grid Corporation of Orissa Ltd. vs. Sukamani Das & Anr. (supra)*. The facts of the main case that was adjudicated upon were that the deceased Sh. Pratap Chandra Das was proceeding to his village when dark clouds gathered in the sky and there were thunderbolts also. It started raining. He came into contact with an electric wire which was lying across the road after getting snapped from the overhead electric line. It was claimed that the said line snapped because of the negligence of the GRIDCO and its officials. The case of the appellant however was that because of thunderbolt and lightning, one of the conductors of the 12 W LT line had snapped even though proper guarding was provided. It was also noticed that one shackle insulator had broken due to lightning and a conductor had also snapped from that shackle insulator. It was also claimed that Sh. Pratap Chandra Das died due to lightning and not because he had come in contact with the snapped live wire. Further, it was claimed that the 12 W LT line had snapped because of an act of God and not because of any negligence. The Supreme Court in those facts noted as follows:-

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising

power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that “admittedly/prima facie amounted to negligence on the part of the appellants”. The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. The mere fact that the wire of the electric transmission line belonging to Appellant 1 had snapped and the deceased had come in contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come in contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy. The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the civil court as it was done in OJC No. 5229 of 1995.”

26. Hence, a defence had been taken by the electricity company that the deceased had died on account of lightning and not on account of electrocution. Further, the court also noted that in action of tort, negligence was required to be established. In those facts, the Supreme Court had taken the view that a writ under Article 226 of the Constitution was not the proper remedy.

27. Reference may also be had to the other judgment of the Supreme Court relied upon by the respondents i.e. *SDO, Grid Corporation of Orissa Ltd. vs. Timudu Oram, (supra)*. There were a bunch of appeals in the said case. As per the facts of the first case, some villagers had illegally taken power supply without the knowledge of the GRIDCO authorities by use of a hook from the L-I point to their houses by means of an uninsulated GI wire. The GI wire got disconnected and fell on the ground. The father of the respondent and other family members got electrocuted. The fact of illegal hooking and death due to electrocution was admitted. In the counter-affidavit, the GRIDCO had taken a plea that the deaths occurred due to the negligence of the deceased themselves and the electric live wire belonging and maintained by the GRIDCO had not snapped and therefore, the GRIDCO was not liable to pay any compensation. The two other matters were heard along with the above noted matter. The Supreme Court concluded as follows:-

“9. In the present case, the appellants had disputed the negligence attributed to it and no finding has been recorded by the High Court that GRIDCO was in any way negligent in the performance of its duty. The present case is squarely covered by the decision of this Court in *Chairman, Grid Corpn. of Orissa Ltd. (GRIDCO)* [(1999) 7 SCC 298] . The High Court has also erred in awarding compensation in Civil Appeal No. 4552 of 2005 [@ SLP (C) No. 9788 of 1998]. The subsequent suit or writ petition would not be maintainable in view of the dismissal of the suit. The writ petition was filed after a lapse of 10 years. No reasons have been given for such an inordinate delay. The High Court erred in entertaining the writ petition after a lapse of 10 years. In such a case, awarding of compensation in exercise of its jurisdiction under Article 226 of the Constitution cannot be justified.”

Hence, the Supreme Court set aside the order of the High Court holding that no finding has been recorded by the High Court that GRIDCO was in any way negligent in the performance of its duty.

28. Clearly, in the above two judgments the relief was denied to the family of the victim as there was no finding recorded in the impugned orders holding the electricity company negligent. The aforesaid two judgments would have no application to the facts of this case where as noted above the negligence of respondent No. 1 is clear from the facts on record. As this court has come to the conclusion that the death of the deceased took place due to the negligence of respondent No. 1, the said respondent is liable to pay necessary compensation

29. Coming now to the damages payable to the petitioners. Petitioners No. 1 and 2 are the parents of the deceased Manish. Other petitioners though not mentioned in the writ petition appear to be the siblings. No details are given about the educational qualification of the deceased Manish. The only fact given is that he was aged 23 years. His profession is also not stated.

30. In the above facts and circumstances, this court can take into account the fact that the minimum wages in 2004 for an unskilled labourer was around Rs.10,000/- per month. Keeping into account the dependency of the petitioners on Late Sh. Manish, I award compensation of Rs. 8 lakhs to the petitioners to be shared jointly by the petitioners No. 1 and 2. The said payment shall be made by respondent No. 1 North DMC within eight weeks from today. Upon failure to pay the aforesaid amount within eight weeks, the petitioners shall be entitled to simple interest @ 9% p.a. for the subsequent period till the date of receipt of the compensation.

31. The petition stands disposed of as above. Pending applications, if any, also stand disposed of.

JAYANT NATH, J

AUGUST 24, 2020
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