

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 891 of 2021**

Omprakash Sahu S/o Jagguram Sahu Aged About 50 Years
 R/o Ward No. 04, Village- Kaitha Parsadih, Balodabazar,
 District- Balodabazar, District : Balodabazar-
 Bhathapara, Chhattisgarh

--- Petitioner

Versus

1. State of Chhattisgarh through The Secretary, Energy Department, New Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District- Raipur, Chhattisgarh.
2. Chhattisgarh State Power Distribution Company Limited through its Chairman Danganiya Raipur, District- Raipur, Chhattisgarh.
3. Chhattisgarh State Renewable Energy Development Agency (Department of Energy, Government of Chhattisgarh.) Through Chairman VIP Road Near Energy Education Park, Raipur, District- Raipur, Chhattisgarh.
4. Superintending Engineer Chhattisgarh State Renewable Energy Development Agency (Government of Chhattisgarh) VIP Road Near Energy Education Park Raipur, District- Raipur, Chhattisgarh.

--- Respondents

For the petitioner	: Mr. Sushobhit Singh, Advocate.
For respondents 1 & 2	: Mr. K. R. Nair, Advocate
For the Respondents 3 & 4	: Mr. Devershi Thakur, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09.08.2021

1. The petition is by the father of the deceased Ravindra Kumar Sahu, who met with a fatal accident and died due to electrocution while performing his duties of maintenance and repairs of the electric lines. The allegation is that the incident occurred due to faulty electricity-line erected by

respondent no.2/CSPDCL, consequently the son of petitioner aged about 24 years sustained electric shock and succumbed to it.

2. As per the indisputable averments of the petition, son of petitioner was entrusted with the task of maintenance and repairs of solar power plant established by CREDA/ respondents 3 & 4 on 13.08.2019 on a remuneration of Rs.10,660/- per month. While the petitioner's son was engaged in the task of replacing the defective bulb in the solar powered panels, unfortunately he came in contact with a live electricity wire, which was running very close to the solar powered pole and sustained fatal injuries due to electrocution which eventually led to his death.
3. In the instant petition, compensation has been claimed. It is contended on behalf of the petitioner that the respondents under the rules were duty bound to conduct the periodical inspection of the electric lines, poles, transformers etc., maintained by them and to take care of the safety measures to prevent the accidents. These provisions relating to safety and security are not followed by the Board. It is further submitted irrespective of whether death was caused due to negligence on the part of the respondent-Board, principles of strict liability are applicable as the respondents carry on hazardous and dangerous activity. Consequently the loss of life is required to be compensated by the respondents without any enquiry into tortious liability of the Board under the ordinary law.
4. On the other hand, Mr. K.R. Nair, learned counsel for respondents 1 & 2 and Mr. Devershi Thakur, learned counsel

for respondents 3 & 4 oppose the arguments and submit that the disputed issue is as to whether any negligence was on the part of the respondents or not.

5. Heard learned counsel for the parties.
6. The Supreme Court in ***Madhya Pradesh Electricity Board v. Shail Kumari 2002 ACJ 526 : (AIR 2002 SC 551) (supra)*** elaborated the doctrine of strict liability which has its origin in English common law, in cases of death of a citizen due to snap electrocution where a very limited scope of defence was left to an incumbent, who is obliged to adhere to the requisite safety measures. The said principle of strict liability has been applied irrespective of any negligence or carelessness on the part of the Managers/Operators of undertaking with activity involving hazardous or risky exposure to human life. Paras 8, 9 & 10 are relevant and quoted hereinbelow:

“8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as “strict liability”. It differs from the liability which arises on account of the negligence or fault in this way i.e., the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant

is held liable irrespective of whether he could have avoided the particular harm by taking precautions.

9. The doctrine of strict liability has its origin in English common law when it was propounded in the celebrated case of *Rylands v. Fletcher, Blackburn, J*, the author of the said rule had observed thus in the said decision : (All ERp. 7E-F)

“The true rule of law is that the person who, for his own purposes, brings on his land, and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and, if he does not do so, he is prima facie answerable for all the damages which is the natural consequences of its escape”.

“10. “There are seven exceptions formulated by means of case-law to the doctrine of strict liability. It is unnecessary to enumerate those exceptions barring one which is this : “Act of stranger i.e., if the escape was caused by the unforeseeable act of a stranger, the rule does not apply”. (Vide P.535, Winfield on Tort, 15th Edn.)”

At para 12 of *M.P. Pradesh Electricity Board v. Shail Kumari (supra)*, the law laid down in the case of *M.C. Mehta v. Union of India, AIR 1987 SC 1086 : (1987) 1 SCC 395* was also taken note of by the Supreme Court in the following words :-

“12. Where an enterprise is engaged in a hazardous or inherently dangerous activity and harm is caused on anyone on account of the accident in the operation of such activity, the enterprise is strictly and absolutely liable to compensate those who are affected by the accident; such liability is not subject to any of the exceptions to the principles of strict liability under the rule in *Rylands v. Fletcher*”.

7. Further this court while following the decision of Supreme Court in *Shail Kumari (Supra)* applied the doctrine of strict liability in case of *Santosh Kumar Kashyap and others Vs. State of Chhattisgarh 2014 STPL 4831* wherein it

was observed that though ordinarily, a claim for compensation and damages caused due to negligence of other party has to be raised before the Civil Court or in case where for a particular tortious liability any remedy is provided in any law, before the Court or Tribunal constituted under such laws, for example, cases relating to motor accidents, fatal accidents or workmen compensation, however, the Supreme Court in *Shail Kumari (Supra)* applied the doctrine of strict liability which has its origin in English common law, in cases of death of a citizen due to snap electrocution.

7. Here in the instant case, it is not in dispute that the petitioner's son died while performing the duty in the premises of maintenance, repairs of solar power plant which is maintained by CREDA and during discharge of his duty, he died. Thus taking into account a significant fact that the death of petitioner's son occurred due to electrocution, in my view, the ratio of decision reported in *Shail Kumari (Supra)* would be applicable to this case also.
8. In view of the above position of law, the writ petition is allowed. Now coming to the point as to what would be the amount of compensation to be awarded, the provisions contained in second schedule appended to Motor Vehicles Act can be taken as guidelines. The status of family and financial condition of the petitioner are not in dispute. There is no denial of fact that the deceased was drawing Rs.10,600/- per month at the relevant time. Therefore, considering the age of the deceased and the age of petitioner (father of deceased) who is stated to be 50 years,

in the opinion of this Court, the interest of justice would be sub-served if a lump-sum compensation of Rs.4,50,000/- is awarded to the petitioner. Accordingly, it is directed that respondents 2 & 3 shall pay the amount of Rs.4,50,000/- to the petitioner within a period of 45 days, failing which, the amount would carry further interest @ 9% per annum from the date of incident till the date of realisation.

**Sd/-
GOUTAM BHADURI
JUDGE**

Rao