

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.23924 of 2014
(Through hybrid mode)**

Brahmananda Swain

....

Petitioner

Mr. Chandra Kanta Nayak, Advocate

-versus-

***Chief Executive Officer, CESU and
others***

.... ***Opposite Parties***

Mr. Pradipta Ku. Mohanty, Senior Advocate
Mr. S. Swain, Advocate

CORAM: JUSTICE ARINDAM SINHA

**ORDER
11.08.2022**

**Order
No.**

7.

1. Mr. Nayak, learned advocate appears on behalf of petitioner and submits, his client has educational qualification B.Ed. He was going about earning his living by giving tuition to students. On 21st July, 2014, while his client was riding motorcycle in the road, a pole fell on his head. Locals took his client to hospital. The incident was picked up by, inter alia, newspaper 'Samaj' and reported the next day. He submits, in excess of Rs.86,000/- was incurred by his client on medical expenditure and the injury left him totally unfit to earn his livelihood.

2. Mr. Swain, learned advocate appears on behalf of the supply company and submits, Bhubaneswar Municipal Corporation (BMC) is to answer since, the poles are its property.

3. Mr. Mohanty, learned senior advocate appears on behalf of BMC and relies on paragraph-9 in his client's counter. The paragraph is reproduced below.

“9. That on 21.07.2014, having come to know that one pole has fallen down on the road and caused the accident, immediately the Municipal officials rushed to the spot and came to know that the Motor cyclist faced accident by the falling of the pole and got injured, then he was taken to hospital by the local people. Then the pole was removed from the road and the rest of the poles have been dismantled.”

On query from Court he submits, his client has a Red Cross fund, from which some money can be paid to petitioner to set off his medical expenses. The maximum amount as can be paid is Rs.20,000/-. He submits further, the writ Court should not get into the facts situation for decision since the petition does not disclose relevant documents and those disclosed, their genuineness cannot also be determined.

4. Petitioner will approach Commissioner of BMC (Mr. Mohanty submits, the office is the proper authority) with website copy of this

order and his original documents regarding medical expenses incurred. Said office will be at liberty to obtain copies from the originals and thereupon verify the genuineness and relevance of those documents, in relation to petitioner's injury. The office will also refer petitioner to its Medical Board for assessing petitioner's injury and obtain report on consequences thereof regarding whether he has fully recovered or has suffered disability thereby. Upon verification on above two counts, the BMC will reimburse petitioner for all medical expenses. In event some medical documents are disputed, reasons on unreliability must be informed to petitioner. Furthermore, also in event of the Medical Board returning a finding of disability, the BMC will take a decision on compensation based on relevant material, to be paid to petitioner and pay the same. All this must be done within three months from date.

5. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks