

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

203

CWP-15667-2015

Date of decision: 15.11.2022

JAGDISH & ANOTHER

.....petitioners

VERSUS

STATE OF HARYANA & ORS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Rajender Kumar, Advocate for
Mr. M.S. Tewatia, Advocate
for the petitioners.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. Parminder Singh Kanwar, Advocate
for respondents No.3 & 4.

Mr. Akshit Mehta, Advocate for
Mr. Johan Kumar, Advocate for respondents No.5 & 6.

VINOD S. BHARDWAJ, J. (Oral)

The present petition had been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of directions in the nature of Mandamus to direct the respondents to pay the compensation to the tune of Rs. 30 lacs on account of death of Mahender, son of the petitioners who is claims to have died due to electrocution.

2. Briefly summarized the facts of the case are that Mahender son of the petitioners died on account of electrocution. A FIR No. 230 dated 17.08.2013 was registered under Section 304-A IPC at Police Station Hodal, District Palwal. A post mortem was also conducted reiterating the fact of death on account of electrocution. The petitioners thereafter sent a legal notice dated 12.02.2014 to respondents-

UHBVNL claiming compensation on account of death due to electrocution. On account of failure on the part of the respondent authorities to respond to the same, the present petition was filed.

3. Vide order dated 20.03.2017, an interim compensation of Rs. 3,00,000/- was granted by this Court as a part of liability of the State for the acts of respondents-UHBVNL.

4. Written statement on behalf of respondents No.3 & 4 i.e. the Distribution licensee had been filed wherein it was averred that the entire transmission line of the distribution licensee was duly inspected and that electrocution in question had not occurred on account of any lapse or negligence on the part of the distribution licensee. The deceased Mahender got electrocuted with the internal house wiring or other apparatus of domestic use. Resultantly, the distribution licensee cannot be held responsible or liable for the defects in the internal wiring of the house of the petitioners. The relevant extract of the said response is reproduced hereinafter below:

3. That the petitioners or his family members did not make/register any complaint to the department office of answering respondent at the time of incident. The fact of electrocution was not got inspected from the engineers of Nigam/CEI of Haryana by the petitioners. The compensation claim was not filed with the Nigam office timely. Moreover it is a specific averment of petitioner that son of petitioner was electrocuted due to cuts in cable of Pvt. Respondent.

4. That it is an admitted fact of petitioner that the deceased Mahinder got electrocuted with internal house wiring or other apparatus of domestic use as per their own averment. The deceased might have been electrocuted due to defects/ damage in electrical apparatus/ wiring. The

existing Nigam distribution system of supply Le. Wires, PVC line and over head line are far away from the site of accident of the house of deceased person. There was no chance for fatal accident of deceased with existing system of Nigam. The Nigam is not responsible for this alleged fatal accident as it happened due to some internal wiring issues which is the sole responsibility of inhabitant of house/ owner.

5. That the officials of the answering respondent after receiving notice from this Hon'ble Court have personally visited the site along with Shri Uday Veer Singh LM and found that some four to five PVC cables are installed/ running in front of the house of the petitioner but same is far away from the site of the alleged accident. That the meter installed at the premises was inspected and it was found that electrocution of Mahinder was occurred during a time of use of electrical house apparatus or some other like reason. Hence Nigam is not responsible for this accident. The claim for grant of compensation was neither filed by the petitioners within time nor any complaint/intimation regarding the incident was got registered with the answering Nigam. Moreover FIR is against Pvt. respondent which essentially mean that petitioner are aware that accident occurred due to defects in internal wiring of the house.”

5. Even though the aforesaid response had been filed way back in the year in February 2017, however, till date no rejoinder controverting the aforesaid factual aspect has been filed by the petitioners. There is nothing on record to establish that death had occurred on account of electrocution due to any negligence or carelessness on the part of the respondents. No fault liability has already been awarded by an interim order passed by this Court. The

manner and the place where electrocution took place and as to whether the same was the distribution system of the licensee or not is disputed. The petitioner has not been able to refer to any unimpeachable documents, on the strength whereof the respondents may be fastened with further liability under the doctrine of strict liability. Writ Court is not in a position to return a finding on the disputed questions of fact that arise in the present case.

6. Hence, without going into the factual aspect to the controversy involved in the present case and taking into consideration the totality of the circumstances, no further orders are required to be passed in the present case. The petitioners shall however be at liberty to take recourse to their alternative remedies under the common law for seeking compensation, if so advised and prove their case by leading evidence.

7. Needless to mention that in the event of any such claim being filed, the competent Court shall decide the same on its merits and based on evidence led before it without being influenced by the present order.

The present petition is disposed of.

(VINOD S. BHARDWAJ)
JUDGE

NOVEMBER 15, 2022
Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No