

CWP-10988-2015

[1]

2023:PHHC: 119339

201

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

CWP-10988-2015

Date of decision: 12.09.2023

Sukhminder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Brahminder Singh, Advocate for
Mr. R.S. Randhawa, Advocate for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Ms. Ritam Aggarwal, Advocate
for respondents No.2 to 4.

VINOD S. BHARDWAJ, J. (ORAL)

The challenge in the present writ petition is to order dated 06.04.2015 (Annexure P-7) passed by respondents No.2 to 4 denying compensation to the petitioner for loss of life of daughter of the petitioner, namely, Mansimran Kaur, aged about 16 years, who died on 10.07.2013 due to electrocution.

It has been averred in the present petition that on 10.07.2013, while Mansimran Kaur, who was a student of Class XI (Medical) at DAV Public School, was going for taking her Biology tuition by her Activa scooter bearing registration No. PB-10BW-6849, she slipped on the live wires outside of House No. 91C, BRS Nagar, Ludhiana and passed away as

a result of electrocution. The post-mortem report (Annexure P-1) mentioned the cause of death as electrocution. A DDR in this regard was also got registered by the petitioner at Police Station Sarabha Nagar, Ludhiana on 10.07.2013 i.e. on the date of the incident itself. The petitioner claimed compensation from the respondents on account of that failure and negligence of non-adherence to the general safety requirements as stipulated under the provisions of Electricity Rules, 2005 for insulation, protection, operation and maintenance of electricity supply lines and apparatus attached thereto.

An application claiming compensation was submitted by the petitioner on 27.11.2014 (Annexure P-5), however, the same was declined by the respondents vide the communication dated 06.04.2015 (Annexure P-7) which is impugned herein.

Counsel appearing on behalf of the respondents has on the other hand stated that the present writ petition deserves to be dismissed not only on account of delay and laches and approaching the Court after expiry of nearly one and half year from the date of the accident but also for the reason that there was no negligence on the part of the respondents and as such they were not criminally liable. It has been further averred that on the said date i.e. on 10.07.2013, there was heavy rain and that there was a collision of Aactiva driven by the deceased, with the electric pole as a result of which she slipped on the live wire, thus suffering the fatal injuries and electrocution.

An additional affidavit was also filed by the respondents reiterating the abovesaid factual aspects and contending that the lapse, if

any, was not attributable to any neglect or fault of the respondent-department and that the incident in question took place as a result of contributory acts of the deceased herself. Adequate safety measures had been put in place by the respondent Authorities and that an inquiry was conducted by the Chief Electrical Inspector to ascertain the exact cause of death. The respondents in their affidavit have submitted that there was no naked joint upon electric wire and the electric meter was also installed at sufficient height and that there was no fault of the respondents.

A further reference is made by learned counsel for the respondents to the newspaper's report to contend that the repair work was being undertaken on the road and that the deceased might have slipped as a result of the construction material lying thereupon. It was thus prayed that the writ petition be dismissed.

Counsel for the petitioner has argued that the factum of the death of Mansimran Kaur due to electrocution is not in dispute. A further reference has been made to the photographs attached with the petition to contend that the electric joint was at a very low height and was not properly insulated. Only the duct tapes have been used for fixing the joints and that the same exposed the commuters and unwary citizens to enhanced danger. Had it not been on account of the low lying joint, the daughter of the petitioner would not have lost her life on the fateful day.

Per contra, learned counsel for the respondents has vehemently argued that there was no fault of the officials of the respondents and that the said fact is got so recorded even in the FIR authored by the petitioner themselves. They have not attributed any lapse or negligence on the part of

the respondent-department. Reference is also made to the Daily Diary Report wherein the statements of the family members were recorded with the further inquest proceedings having concluded that there was no lapse by the distribution licensee and the incident in question took place because of a fall by the deceased on the joint electric wires and its impact. She contends that the distribution licensee had maintained sufficient safeguards and that proper insulation had been put in place so as to prevent any such event and that the external factors were beyond the control of the PSPCL.

I have heard learned counsel for the respective parties and gone through the documents available on record .

The manner in which the accident took place is not subject matter of challenge in the instant petition. The deceased was riding her Aactiva on a rainy day and met with the accident by slip and as a result thereof she fell on the joint duct taped wires and got herself electrocuted. The photographs appended along with the present petition show that the electrical wires were joined by duct tape instead of a proper insulation that was required to be maintained for a power supply cable live. Further, the joint was low heighted and adequate measures for ensuring safety and precautions seemingly had not been put in place.

The present case may not *ipso facto* lead to a conclusion that there was an apparent lapse or negligence on the part of the respondents/distribution licensee, however, at the same time, it can also not be assumed that all the necessary precautions required to be put in place, as per the applicable regulations had actually been undertaken by the respondents/distribution licensee. Since disputed questions of fact arise in

the present writ petition, which require ascertaining of liability as to whether it was a case of negligence on the part of the respondents or that of a contributory negligence in addition to the determination of compensation and apportionment thereof, I deem it appropriate to dispose of the present writ petition by granting an interim compensation of Rs.2 lacs to the petitioner herein with liability to the petitioners to approach the competent forum for seeking claim for compensation on account of death of Mansimran Kaur. While determining such compensation, the Court may take note of and follow the guidelines as per the Motor Accidents Claims in view of the Division Bench judgment of this Court in **CWP No.841 of 2008 titled as Paramjit Kaur vs. State of Punjab.**

Ordered accordingly. The petitioner may, if so advised, take recourse to filing an appropriate petition for claiming damages from the respondents, as per law for decision as per direction above.

In the event of filing of such a petition, the period spent in pursuing the present litigation shall be considered and benefit thereof be extended to the petitioners.

Disposed of accordingly.

12.09.2023

manoj

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No