2023:PHHC:047783

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

203 **CWP-15331-2015**
Date of Decision: 22.03.2023

MEERA & ORS.

... Petitioner

VERSUS

SDO/XEN DHBVN LTD. & ORS.

... Respondents

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

****

Present: Mr. Gopal Sharma, Advocate
for the petitioners.

Mr. R.S. Longia, Advocate
for the respondents for
for respondents No.1 to 3.

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VINOD S. BHARDWAJ, J. (ORAL)

The present petition challenges the Award dated 30.05.2014 passed by Permanent Lok Adalat (Public Utility Services), Rewari in case No.450 dated 30.09.2013 to the extent whereby inadequate compensation has been awarded on account of electrocution death of Satish Kumar - husband of petitioner No.1 and father of remaining petitioners.

Briefly summarized, the facts of the case are that Satish Kumar – since deceased, who was husband of petitioner No.1 and father of petitioners No.2 to 4, was employed with P.S. Logistics on a monthly salary of Rs.10,000/-. On the date of incident i.e. 21.07.2013, he had visited the shop of Dr. Ashok at Bus Stand Chilhad, Tehsil and District Rewari. An electric transmission line was passing by at a height of 3-4 feet from the roof of the shop and was dangerously sagging. The deceased Satish Kumar was accidently electrocuted on account of coming in contact with the aforesaid electric transmission line. He sustained fatal injuries and was referred to Birendera Hospital Rewari, wherefrom he was referred to H-way Hospital, Rewari and then to Medicity Hospital, Gurgaon, where he died on 22.07.2013. The petitioners claimed compensation from the respondents on the principle of strict liability for untimely and unnatural death of Satish Kumar. As no response was received, an application under Section 22-C of the Legal Services Authority Act, 1987 was instituted by the petitioners before the Permanent Lok Adalat (Public Utility Services), Rewari.

Upon notice, the respondents entered appearance and took various objections including that the deceased was not the consumer of the Nigam and that there is no house/plot of the deceased at the spot. Further, as the incident in question took place near the hospital of Dr. Ashok, thus, there is no liability of the respondent-Distribution Licensee and Dr. Ashok should be held responsible. It is averred that the alleged supply line was commissioned during the later 1970s and the height of the said line was in accordance with the then applicable rules and instructions of the Department. The construction in question had been raised by Dr. Ashok Kumar beneath the 11 KV feeder line in violation of law. The height of the tin-shed was also raised by about 5 feet resulting in the reduction of gap between the tin-shed and the HT line. Since the deceased was exposed to the aforesaid danger on account of an illegal act of Dr. Ashok Kumar, he alone is responsible for the incident and any liability on account thereof. It was also stated that the deceased was engaged by Dr. Ashok Kumar in removing/replacing the roof stores and has thus contributed by his own negligence in the occurrence of incident.

The proceedings commenced before the Permanent Lok Adalat (Public Utility Services), Rewari and upon consideration of the evidence led by the respective parties, the Permanent Lok Adalat recorded the following finding:

> *"4. It is correct that according to the aforementioned statement given by Rakesh Kumar S/o Sh. Thanwar Singh (Ex. A13), there was no fault on the part of anyone. A perusal of the document Ex.A11 shows that the high tension line of 11 K.V. was passing over the house of Sh. Ashok Kumar and he has moved an application on 13.12.2011 to the concerned authority for removing the same. In the light of all the facts, the statement of Sh. Rakesh Kumar to the effect that there was no fault on line part of anyone was of no help to absolve the respondents regarding the liability of death of Satish Kumar (deceased). A perusal of the bill Ex. A2 shows that Rs.1380/- were paid by the applicant for the treatment of Satish Kumar (deceased). A perusal of the document Ex. Al shows that Rs.8500 were paid for the treatment of Satish Kumar (Deceased) to Birendera Hospital, Rewari. A perusal of the document Ex. A6 shows that Rs.35,300/- were paid by the applicant towards anesthesia and critical case. Apart from it Rs.8233/- and Rs.650/- were paid by the applicant to blood bank and towards consumable charges. A perusal of Ex.A7 shows that Rs.1600- were paid by the applicant to Bharat Diagnostics, Rewari. A perusal of document Ex A8 shows that Satish Kumar (deceased) had suffered electric burns and head injury and remained admitted in Birendera Hospital, Rewari and thereafter, he was referred to higher centre for head injury management.*
>
> *5. For the death of the husband of the applicant, we grant a sum of Rs.75,000/- + charges which have been detailed above which in total amount to as Rs.1,25,963/-. The respondents are liable to pay the above said amount to the applicant. We pass an award for a sum of Rs.1,25,963/- in favour of the applicant and against the respondents."*

Aggrieved of the insufficient compensation of Rs.75,000/- on account of death of Satish Kumar, who was aged 36 years as on the date of incident and the expenses, the present petition has been filed.

Notice of the writ petition was issued to the respondents, whereafter, they entered appearance and filed their written statement. The plea as noticed above and raised before the Permanent Lok Adalat had been reiterated. It was also submitted that the respondent-Distribution Licensee has already complied with the Award dated 30.05.2014 passed by the Permanent Lok Adalat and a total compensation to the tune of Rs.3,47,057/- stands disbursed vide cheque No.349929 dated 23.04.2015 for a sum of Rs.1,25,963/- and cheque No.215528 dated 24.07.2018 amounting to Rs.2,21,094/- (i.e. medical expenses Rs.2,56,733.31/- + Rs.75,000/- + incidental expenses).

Learned counsel for the petitioner contends that the grievance of the petitioners is only against insufficient and meager amount of compensation awarded on account of death of Satish Kumar. He submits that the respondents never disputed the cause of death due to electrocution or that the incident in question occurred from the public distribution network of the respondents-Distribution Licensee themselves. He further submits that the respondents cannot get away from their obligation only on an objection that the transmission line had been laid in 1970s as per the norms applicable then. It was incumbent upon the respondents-Distribution Licensee to have ensured that the transmission lines are re-laid as per the renewed/fresh norms. Further, insofar as the objections raised by the respondents-Distribution Licensee that construction had been raised by Dr. Ashok Kumar in an illegal manner is concerned, the provisions of Telegraph Act, 1885 read with The Electricity Act, 2003 empower the respondents to initiate appropriate action for removal of any such structure that has been erected illegally under a transmission line. The respondents having failed to take any action, required of them by the statute, have thus been negligent and callous in discharge of their functions. He further contends that the law of strict liability is attracted in these circumstances. Whosoever, brings a danger to a premises is obligated under the aforesaid principles of strict liability to ensure that adequate safety measures are put in place to avoid occurrence of any untoward incident, which the respondents miserably failed to ensure.

He further contends that a Division Bench of this Court has already held in the matter of ***Paramjit Kaur and others Vs. State of Punjab and others*** reported as ***(2008) 4 R.C.R. (Civil) 772*** that where the negligence on the part of respondent-Distribution Licensee is established, the damages/ compensation can be assessed on the basis of principles of Motor Vehicle Act, 1988. The relevant extract of the said judgment is reproduced hereinafter below:

> *"18. Having held that this is a clear case of negligence, incompetent workmanship and supervision on the part of the Board and its officials, which has resulted in the untimely and sudden death of Sh. Lajja Ram, we proceed to assess the amount of compensation to which the petitioners would be entitled to in the present case. Since there is nothing in the Acts governing the transmission and supply of electricity which regulates the grant or quantum of compensation in our considered view the well settled and accepted principles adopted by the Courts for determination of compensation to be award in fatal accident cases under the Motor Vehicles Act, 1988 can be adopted, as the underlying principles for determination of the quantum of compensation are same."*

Reliance is also placed on the judgment of ***Kanwaljit Kaur and others Vs. State of Punjab*** reported as ***(2018) 2 PLR 5***. The relevant extract of the same is reproduced hereinafter below:

> *"8.Since I have decided that the respondents are at fault, now the question would be as to what compensation should be awarded to the petitioners. In such cases where there is no provisions for assessing the compensation, the Court has to fall back upon the principles of awarding compensation in case of a motor vehicular accident. The petitioners have alleged that the deceased was of 28 years of age and was earning Rs.16,000/- per month but there is no evidence brought on record in that regard but keeping in view the fact that the deceased was a healthy bodied person, income of the deceased is assessed @ Rs.10,000/- per month, out of which, after deducting 1/3rd amount for his personal use and expenses, the annual dependency of the petitioners upon the deceased comes to Rs.80,000/- (Rs.6666.6x12) and while applying the multiplier of 17, being the deceased 28 years of age, the amount of compensation to be paid to the petitioners comes to Rs.13,60,000/-. The aforesaid amount of compensation is directed to be paid by the respondents to the petitioners along with interest @ 6% per annum from the date of death of the deceased till its actual realization within a period of two months from the date of receipt of certified copy of this order."*

Reliance is also placed on the judgment of this High Court passed in the matter of ***Jagir Singh and others Vs. State of Haryana and others*** reported as ***(2016) 5 R.C.R. (Civil) 920*** to contend that the Electricity Department is obligated to ensure that the adequate safety measures in supply of electricity are put in place. The doctrine of strict liability fastens the responsibility upon the Corporation involved in the activity of transmission of electricity in an event when an untoward incident takes place due to the negligence or failure to enforce law on part of the Corporation or its employees.

The relevant extract of the abovementioned judgment is reproduced hereinafter below:

"25. Now I proceed to examine the first part of this question i.e. whether the petitioners are entitled to compensation. The respondent – corporation is indulging in transmission of electricity activities which in absence of safety measures may be dangerous to person and property of others. The law allows it to be carried on for the sake of social utility but only in accordance with the statutory provisions i.e Indian Electricity Act, 2003 and the Rules framed thereunder laying down safety measures and providing further sanctions for non-compliance. It would be appropriate to reproduce relevant provisions. Sections 53 and 161 of the Indian Electricity Act, 2003 reads as under:

*"**Section 53. Provision relating to safety and electricity supply.-** The Authority may, in consultation with the State Government, specify suitable measures for-*

(a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;

(b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;

(c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified;

(d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;

(e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;

(f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;

(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

161. Notice of accidents and inquiries.- *(1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.*

(2) The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report--

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of

any licence, so far as those provisions affect the safety of any person, have

been complied with.

(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).

26. The Indian Electricity Act, 2003, Rules and Regulations framed thereunder provide for adequate and proper safety measures. If the corporation is not adhering to the provisions of the Electricity Act, Rules and Regulations framed thereunder and there is resultant accident than it is certainly affecting the human rights/ right to life and is covered under Article 21 of the Constitution of India. In such cases compensation can be awarded under Article 226 of the Constitution applying the doctrine of strict liability. The corporation has to compensate for the damage caused, irrespective of any carelessness on its part. The basis of payment of compensation/damages is foreseeable risk inherent in the very nature of activities which Corporation undertakes. The principle of strict liability resembles negligence. But the difference lies between the two. The concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions which could be done for avoiding the harm but in cases of strict liability of the undertaking/ Corporation indulging in activities which are hazardous and risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, although there may not be any negligence or carelessness on the part of the officers/ officials of the corporation. The basis of such liability is the *foreseeable risk inherent in the very nature of such activities. The liability cast on such person is known, in law, as "strict liability".*

27. The doctrine of strict liability has its origin in English Common Law. It was propounded in the celebrated case of ***Rylands Vs. Fletcher, 1868 Law Reports (3) HL 330 :1861-73 All ER Rep.1.*** *Justice Blackburn had observed thus:*

> *"The rule of law is that the person who, for his own purpose, 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 so, he is prima facie answerable for all the damage which is the natural consequence of its escape."*

However, following exceptions to ***Rylands Vs Fletcher*** *have been recognized in some later cases:*

> *i) Default of the claimant, ii) Consent of claimant, iii) Act of God, iv) Act of Third Party/stranger, iv) Statutory Authority.*

28. One of the exceptions is that "Act of stranger" i.e. if the escape was caused by the unforeceable act of a stranger, the rule does not apply. (Winfield on Tort, 15th Edn. Page 535). The rule of strict liability has been approved and followed in many subsequent decisions in England and numerous decisions of the Hon'ble Supreme Court to that effect. Constitution Benches of the Hon'ble Supreme Court in the cases of ***Charan Lal Sahu v. Union of India,*** *AIR 1990 SC 1480 and* ***Gujarat State Road Transport Corpn. V. Ramanbhai Prabhatbhai,*** *AIR 1987 SC 1690 have followed with approval the principle laid down in Rylands (supra). The same principle has been reiterated in* ***Kaushnuma Begum VS. New India Assurance Co. Ltd.,*** *AIR 2001 SC 485. The Hon'ble Supreme Court in the case of* ***Smt. Sukamani Das (Supra)*** *and* ***Timudu Oram(Supra)*** *came to hold that since disputed questions of fact are involved, the writ petition* *is not maintainable, but the question of a strict liability was not taken into consideration in those cases.* ***Sukamani Dass (Supra)*** *and* ***Timudu Oram (supra)*** *cannot be understood as laying a law that in every case of tortuous liability recourse to be followed is a civil suit. When there is negligence on the face of it and infringement of Article 21, it cannot be said that there will be any*

bar to proceed under Article 226 of the Constitution, since right to life is one of the basic human rights guaranteed under Article 21 of the Constitution and denial of remedy under writ jurisdiction would amount to robbing Article 21of its significant content. In the case of ***Rudal Sah vs State of Bihar*** *AIR 1983 SC 1086, the Hon'ble Supreme court for the first time was faced with dilemma whether or not to award compensation for violation of right to life and personal liberty.*

29. In the case of ***M.P. Electricity Board Vs Shail Kumar and others****, AIR 2002 (SC) 551,one Jogendra Singh, a workman in a factory, was returning from his factory in late evening of 23.8.1997 riding on a bicycle. There was rain and hence the road was partially inundated with water. The cyclist did not notice the live wire on the road and hence he rode the vehicle over the wire which twitched and snatched him and he was instantaneously electrocuted. He fell down and died within minutes. When the action was brought by his widow and minor son, a plea was taken by the Board that one Hari Gaikwad had taken a wire from the main supply line in order to illegally use the energy for his own use and the said act of pilferage was done clandestinely without even the notice of the Board and that the line got unfastened from the hook and it fell on the road and when cycle was driven over it by the deceased it slided resulting in the instantaneous electrocution. In paragraph 7, the Supreme Court held as follows:*

> *"6......It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human, being, who gets unknowingly*

trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of such energy to his private property and that the electrocution was from such diverted line. It is the look out the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps."

30. The principle of res ipsa loquitur is well known. It is explained in a very illustrative passage in ***Clerk & Lindsell on Torts****, 16th Edn., pp. 568- 569, which reads as follows:*

"Doctrine of res ipsa loquitur. The onus of proof, which lies on a party alleging negligence is, as pointed out, that he should establish his case by a pre-ponderance of probabilities. This he will normally have to do by proving that the other party acted carelessly. Such evidence is not always forthcoming. It is possible, however, in certain cases for him to rely on the mere fact that something happened as affording prima facie evidence of want of due care on the other's part: 'res ipsa loquitur is a principle which helps him to do so'. In effect, therefore, reliance on it is a confession by the plaintiff that he has no affirmative evidence of negligence. The classic statement of the circumstances in which he is able to do so is by Erle, C.J.: 'There must be reasonable evidence of negligence. But where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who

> *have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendants, that the accident arose from want of care. It is no more than a rule of evidence and states no principle of law. "This convenient and succinct formula", said Morris, L.J., "possesses no magic qualities; nor has it any added virtue, other than that of brevity, merely because it is expressed in Latin". It is only a convenient label to apply to a set of circumstances in which a plaintiff proves a case so as to call for a rebuttal from the defendant, without having to allege and prove any specific act or omission on the part of the defendant. He merely proves a result, not any particular act or omission producing the result. The court hears only the plaintiff's side of the story, and if this makes it more probable than not that the occurrence was caused by the negligence of the defendant, the doctrine res ipsa loquitur is said to apply, and the plaintiff will be entitled to succeed unless the defendant by evidence rebuts that probability. It is not necessary for res ipsa loquitur to be specifically pleaded."*

Per contra, learned counsel for the respondent-Distribution Licensee contends that they cannot be fastened with the liability since an illegal construction was raised by Dr. Ashok and the deceased himself was assisting Dr. Ashok. He thus contends that the liability is that of Dr. Ashok and not of the respondent-Distribution Licensee. The deceased having climbed on top of the tin shed ought to have exercised due care. He failed to do so and thus contributed immensely to the occurrence of the incident.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

On a pointed query raised, learned counsel for the respondent-Distribution Licensee, however, failed to refer to any document/notices issued by the respondent-Distribution Licensee against the illegal construction and/or steps taken for removal thereof. He also failed to refer to any evidence on the basis whereof, it can be established that the officials of the respondent-Distribution Licensee were not negligent and/or careless in enforcing the removal of the unauthorized construction, if any under the transmission lines. It rather establishes that the Authorities have never taken the necessary and adequate steps for removal/demolition of the unauthorized constructions, which was raised in violation of The Electricity Act, 2003 read with the provisions of Telegraph Act, 1885. Further, the respondents have only taken a defence that transmission lines had been raised as per norms of 1970, however, no evidence to establish the same or that the transmission lines existed as per the safety parameters approved today has been produced/placed on record. It is necessary that the augmentation of the transmission lines and the safety measures as amended/modified from time to time are required to be put in place. Having failed to implement the safety parameters prescribed by the appropriate Commission for laying/installation of the transmission network, the respondents cannot escape from their responsibilities solely by contending that the safety measures as in force when the infrastructure was laid had been put in place. Any additional safeguard as are prescribed or are required to be implemented must be put in place by the respondent-Authorities. Failure to do the needful entails tortious liability and would hold the respondents liable to compensate the deceased on the principles of strict liability.

The defence of the respondent-Distribution Licensee that they are not liable to compensate the petitioners on account of the incident in question solely on the ground that the construction below the transmission lines had been raised by Dr. Ashok in violation of the provisions of The Electricity Act, 2003 is not tenable. Section 68 of The Electricity Act, 2003 deals with overhead lines. The same is extracted as under:

> ***"Section 68. (Provisions relating to Overhead lines):***
>
> *(1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).*
>
> *(2) The provisions contained in sub-section (1) shall not apply-*
>
> > *(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;*
> >
> > *(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or*
> >
> > *(c) in such other cases, as may be prescribed.*
>
> *(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.*
>
> *(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.*
>
> *(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application*

of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee."

A perusal of sub-section 5 of Section 68 of The Electricity Act, 2003 shows that the licensee can submit an application to the Executive Magistrate for removal of any structure or object which may interfere or interrupt the conveyance or transmission of electricity.

The respondent authorities have failed to refer to any evidence to show that such an exercise had been undertaken by it. The only inference which flows from the same is that the construction in question, if any, did not violate any provision of law. A legal fiction has to be drawn in favour of the State Agencies that they would enforce the law. Assuming that the construction was in violation of the statute and the responsible enforcement official did not take adequate and appropriate steps, it still puts the blame on the respondents, although in such a case, the Authority may fix the administrative lapse and recover the money. The primary liability, however, would that be of the employer i.e. the Distribution Licensee itself.

The responsibility having been cast on the officials of the respondent-Distribution Licensee to ensure that any unauthorized construction is removed, failure to do the needful cannot be cited as a lapse absolving it of the consequences.

Furthermore, the additional plea of defence is that the respondent-Distribution Licensee had laid the transmission lines in accordance with the parameters prescribed in the 1970s. The respondents have, however, not led any evidence to establish that the same. In any case, notwithstanding the initial installation to be as per rule, the respondent-Distribution Licensee was obligated to put in place all improved and/or amended safety precautions and measures. In the event, the height/distance had been altered by the appropriate Commission in exercise of its powers under The Electricity Act, 2003 and the Rules framed thereunder, the respondent-Distribution Licensee was obligated to ensure that appropriate augmentation/safety measures are put in place to be compliant of the modified/amended safety norms.

When a plea of negligence by licensee is raised and it is established that the incident in question took place from the public distribution system and not from private enforced distribution, the burden lies on the respondent-Distribution Licensee to establish that all the safety parameters had been duly put in place. The position in law is well settled from the judgment of ***Jagir Singh (Supra)*** that where the danger has been brought to place by the respondents/defaulter, the burden lies upon the person to ensure that no untoward incident takes place and that loss of life and property is avoided.

The acts/omissions of the respondent-Distribution Licensee failed in ensuring that human life is not unnecessarily endangered. Resultantly, the contentions of the respondents do not deserve acceptance.

It is further not in dispute that the lapse/ negligence and the applicability of the principles of strict liability has already been held against the respondent-Distribution Licensee by the Permanent Lok Adalat (Public Utility Services), Rewari vide its Award dated 30.05.2014. The respondent-

Distribution Licensee chose not to impugn the said Award and thus accepted the same. The necessary corollary which flows out of the same is that the respondent-Distribution Licensee is not aggrieved of the finding recorded by the Permanent Lok Adalat (Public Utility Services), Rewari as regards the negligence/lapse of the respondent-Distribution Licensee or its liability to compensate the petitioners- the family of the deceased for the loss of life in the unfortunate incident. Hence, it does not lie for the counsel representing the respondent-Distribution Licensee to contend that the doctrine of strict liability against it is not attracted. The said finding has already become final and binding against the respondent-Distribution Licensee.

The same now leads this Court to the second question with regard to computation of compensation for the family of the deceased.

In the judgment passed by this Court in the cases of ***Paramjit Kaur (Supra) and Kanwaljit Kaur (Supra),*** this Court has already applied the principles of the Motor Vehicles Act, 1988 for computation of compensation to be disbursed to the family of deceased in a case of electrocution. I would thus draw support from the above said judgments to contend that the compensation awarded by the Permanent Lok Adalat (Public Utility Services), Rewari was inadequate and insufficient. The award fails to give any details as to how the compensation of Rs.75,000/- towards loss on account of death was computed. The compensation thus is being ascertained on the basis of the parameters/yardstick prescribed under the Motor Vehicles Act, 1988.

The petitioners claim that the deceased Satish Kumar was working at P.S. Logistics at monthly salary of Rs.10,000/-. The said claim has not been controverted or disputed. Consequently, the salary of deceased is taken at Rs.10,000/- per month. The deceased is survived by his widow and three minor children as on the date of the incident. Going by the unit based formula, a deduction of 25% towards personal expenses is allowed. Resultantly, the monthly dependency is calculated as Rs.7,500/- and the annual dependency is taken as Rs.90,000/-. Taking into consideration that the deceased was 36 years of age, multiplier of 15 is accordingly applied. Further the future prospects are taken as 40%, plus Rs.15,000/- towards loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- towards funeral expenses. Thus the total compensation is worked out as under:

Total dependency including future prospects	Rs.90,000 X 40% multiplied by 100	Rs.1,26,000-00
After applying multiplier of 15	**126000 X 15**	**Rs.18,90,000-00**
Loss of Estate		Rs.15,000-00
Loss of consortium		Rs.40,000-00
Funeral expenses		Rs.15,000-00
Grand Total		**Rs.19,60,000-00**

The amount be disbursed alongwith interest at the rate of 6% from the date of filing of the application before the Permanent Lok Adalat (Public Utility Services), Rewari till its release. The respondent-Distribution Licensee shall be entitled to set off the compensation (excluding the medical and other actual expenses) already disbursed to the petitioners while disbursing the amount.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

22.03.2023
rajender

Whether speaking/reasoned :*Yes/No*

Whether reportable : *Yes/No*