

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

**CWP No.16148 of 2018 (O&M)
Date of decision : 04.05.2023**

Ranbir Singh and another

....Petitioners

Versus

Punjab State Power Corporation Ltd and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gulzar Mohammad, Advocate
for the petitioners.

Mr. Jagdeep S. Rana, Advocate
for respondents No.1 and 2.

PANKAJ JAIN, J.

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioners pray for issuance of a writ in the nature of mandamus directing the respondents to pay compensation on account of unfortunate death of their son Bhupinder Singh due to electrocution.

2. Brief facts that need to be noticed for adjudication of the present *lis* are that the deceased namely Bhupinder Singh was working with M/s Jai Maa Knitwear and was drawing salary of Rs.12,000/- per month. On 1st of September, 2017 deceased Bhupinder Singh (son of petitioners) along with co-worker namely Sandeep Kumar were asked to go to the city regarding work of the firm. When Bhupinder Singh

and Sandeep Kumar reached at New Madhpuri Street No.2, Ludhiana Main Road Gaushala, the left foot of the deceased came in contact of telephone pole in which current was running as a live wire of electricity was touching the wall and the telephone pole. The deceased Bhupinder Singh suffered electric shock leading to his death. FIR No.120 dated 2nd of September, 2017 was registered. Post mortem was conducted. As per medical opinion *“the cause of his death is due to Cardio Respiratory Arrest as a result of Electric Current, which is sufficient to cause death in ordinary course of nature. Injuries are Ante Mortem in nature”*. The petitioners represented to the respondents by way of legal notice dated 3rd of November, 2017 seeking compensation asserting that the death of Bhupinder was on account of negligence of the respondent-Corporation. However till date neither the respondent-Corporation has responded to the said legal notice nor paid any compensation to the petitioners.

3. Ld. Counsel for the petitioners submits that it has come on record that the cause of death of the deceased is due to Cardio Respiratory Arrest as a result of Electric Current, which is sufficient to cause death in ordinary course of nature. He further relies upon judgment passed by Apex Court in **M.P. Electricity Board vs. Shail Kumari, 2002(1) Civil Court Cases 685** to submit that the respondents being negligent are liable to pay compensation.

4. Per contra, stand of the answering respondent No.2 has been spelled out in the Narrative Report placed on record along with the written statement at Annexure R-1 which reads as under :-

“On 01.09.2017 at around 3:30 Shri Raghveer Singh J.E. Informed the undersigned regarding the deadly incident which took place at area New Madhopuri, Lane No.2. The undersigned at that point of time was there in Sunder Nagar Unit 2, Matewara, as the electricity supply of the area was affected due to heavy rain.

When the undersigned reached the spot at around 4:40 where the accident took place, there were present at that time A.A.E (JE-1) Shri Surinder Kumar and concerned area J.E. Raghveer Singh along with other staff, streets were filed with water. At the time of inspection of the spot there was no breakage of any line (LT-HT) either of conductor, Sub-main or wire of service line/PVC etc. and neither was any electricity wire tied to the telephone poll standing in the water. When at 4:53 the supply was restored and was fine. On checking/inspecting there was no current in the wall and water. Public was passing normally through the water by foot as well as on the vehicles.

As the public told, two persons were passing on activa scooter out of them the scooter driver became unconscious and fell near the telephone poll and the other person came out the water. The sufferer of the accident was sent to the Hospital by the public and the police in ambulance, who died later on. The statements of the shopkeepers and people at the place of accident were recorded by the concerned J.E. The undersigned directed the A.A.E/Tech, Unit-1 Sunder Nagar Ludhiana via Telephone and the concerned J.E. of the area to give information regarding the deadly incident to the office and prepare a report case.

Sd/-

Senior Executive Engineer/Operation,

Sunder Nagar Division, Ludhiana”

5. I have heard counsel for the parties and have gone through records of the case.

6. Electricity Rules, 1956 have been enacted under Section 37 of the Indian Electricity Act, 1910 to lay down the procedure of safety and protective devices *qua* overhead electricity lines passing over part of any street, public place or any consumer's premises. Rules 29, 44, 45, 46 and 91 thereof read as under :-

"29. Construction, installation, protection, operation and maintenance of electric supply lines and apparatus. - (1) All electric supply lines and apparatus shall be of sufficient ratings for power, insulation and estimated fault current and of sufficient mechanical strength, for the duty which they may be required to perform under the environmental conditions of installation, and shall be constructed, installed, protected, worked and maintained in such a manner as to ensure safety of [human beings, animals and property].

(2) Save as otherwise provided in these rules, the relevant code of practice of the [Bureau of Indian Standards] [including National Electrical Code] if any may be followed to carry out the purposes of this rule and in the event of any inconsistency, the provision of these rules shall prevail.

(3) The material and apparatus used shall conform to the relevant specifications of the [Bureau of Indian Standards] where such specifications have already been laid down."

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44. Instructions for restoration of persons suffering from electric shock. - (1) Instructions, in English or Hindi and the local language of the district and where Hindi is the local language, in English and Hindi for the restoration of persons suffering from electric shock, shall be affixed by the owner in a conspicuous place in every generating station, enclosed sub-station, enclosed switch-station and in every factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (63 of 1948) in which electricity is used and in such other premises where electricity is used as the Inspector or any officer appointed to assist the Inspector may, by notice in writing served on the owner, direct.

(2) Copies of the instructions shall be supplied on demand by an officer or officers appointed by the Central or the State Government in this behalf at a price to be fixed by the Central or the State Government.

(3) The owner of every generating station, enclosed substation, enclosed switch-station and every factory or other premises to which this rule applies, shall ensure that all authorised persons employed by him are acquainted with and are competent to apply the instructions referred to in sub-rule (1).

(4) In every manner high voltage or extra-high voltage generating station, sub station or switch station, an artificial respirator shall be provided and kept in good working condition.

45. Precautions to be adopted by consumers, [owners, occupiers], electrical, contractors, electrical workmen and suppliers - (1) No electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps, fans, fuses, switches, low voltage domestic appliances and fittings as in no way alters its capacity or character, shall be carried out upon the premises of or on behalf of any [consumer, supplier, owner or

occupier] for the purpose of supply to such [consumer, supplier, owner or occupier] except by an electrical contractor licensed in this behalf by the State Government and under the direct supervision of a person holding a certificate of competency and by a person holding a permit issued or recognised by the State Government :

Provided that in the case of works executed for or on behalf of the Central Government and in the case of installations in mines, oil fields and railways, the Central Government and in other cases the State Government may, by notification in the Official Gazette, exempt, on such conditions as it may impose, any such work described therein either generally or in the case of any specific class of [consumers, suppliers, owners or occupiers] from so much of this sub-rule as requires such work to be carried out by an electrical contract licensed by the State Government in this behalf.

(2) No electrical installation work which has been carried out in contravention of sub-rule (1) shall either be energised or connected to the works of any supplier.]

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46. Periodical inspection and testing of installation, - (1)(a)

Where an installation is already connected to the supply system of the supplier, every such installation shall be periodically inspected and tested at intervals not exceeding five years either by the Inspector (or any officer appointed to assist the Inspector) or by the supplier as may be directed by the State Government in this behalf or in the case of installation belonging to, or under the control of the Central Government, and in the case of installations in mines, oil fields and railways by the Central Government.

(aa) the periodical inspection and testing of high voltage and extra high voltage installations belonging to supplier, shall also

be carried out at intervals not exceeding five years by the inspector or any officer appointed to assist the inspector.]

(b) Where the supplier is directed by the Central or the State Government as the case may be to inspect and test the installation he shall report on the condition of the installation to the consumer concerned in a form approved by the Inspector and shall submit a copy of such report to the Inspector or to any officer appointed to assist the Inspector and authorised under sub-rule (2) of the rule 4A.

(c) Subject to the approval of the Inspector, the forms of inspection report contained in Annexure IX-A may, with such variations as the circumstances of each case require, be used for the purposes of this sub-rule.

(2)(a) The fees for such inspection and test shall be determined by the Central or the State Government, as the case may be, in the case of each class of consumers and shall be payable by the consumer in advance.

(b) In the event of the failure of any consumer to pay the fees on or before the date specified in the fee-notice, supply to the installation of such consumer shall be liable to be disconnected under the direction of the Inspector. Such disconnection, however, shall not be made by the supplier without giving to the consumer seven clear days' notice in writing of his intention so to do.

(c) In the event of the failure of the owner of any installation to rectify the defects in his installation pointed out by the Inspector or by any officer appointed to assist him and authorised under sub-rule (2) of Rule 4A in the form set out in Annexure IX and within the time indicated therein, such installation shall be liable to be disconnected [under the directions of the Inspector] after serving the owner of such installation with a notice :

Provided that the installation shall not be disconnected in case an appeal is made under rule 6 and the appellate authority has stayed the orders of disconnection.

Provided further that the time indicated in the notice shall not be less than 48 hours in any case.

Provided also that nothing contained in this clause shall have any effect on the application of rule 49.

(3) Notwithstanding the provisions of this rule, the consumer shall at all times be solely responsible for the maintenance of his installation in such condition as to be free from danger."

"91. Safety and protective devices :- (1) Every overhead line, (not being suspended from a dead bearer wire and not being covered with insulating material and not being a trolley-wire) erected over any part of street or other public place or in any factory or mine or on any consumers' premises shall be protected with a device approved by the Inspector for rendering the line electrically harmless in case it breaks.

(2) An Inspector may by notice in writing require the owner of any such overhead line wherever it may be erected to protect it in the manner specified in sub-rule (I).

(3) The owner of every high and extra-high voltage overhead line shall make adequate arrangements to the satisfaction of the Inspector to prevent unauthorised persons from ascending any of the supports of such overhead lines which can be easily climbed upon without the help of a ladder or special appliances. Rails, reinforced cement concrete poles and pre-stressed cement concrete poles without steps, tubular poles, wooden supports without steps, I-sections and channels shall be deemed as supports which cannot be easily climbed upon for the purpose of this rule]."

(emphasis supplied)

7. Though 1910 Act stands repealed by 2003 Act but by virtue of Section 185(2)(c) these Rules continue to have effect. In the present mechanized world when use of energy and machine does involve many situations which are hazardous and pose threat to life and property that law has made the person handling life threatening devices liable. It is this principle that has been termed as Rule of Strict Liability. Near home in the enlightening judgment authored by Justice Rajiv Narain Raina in the case of '**Raman vs. State of Haryana and others**' (supra), the Court held as under :

“24. I think that on failure to use all reasonable means to prevent escape of an inherently dangerous thing, which by nature electricity is, the standard of care will be very high and the onus would be on the supplier to show that there was no negligence. In this case, the respondent-Nigam has not successfully discharged the onus to the satisfaction of this Court.”

8. After going through plethora of judgments dealing on the issue the Court in the case of 'Raman vs. State of Haryana' (supra) further held as under :

“33. On a reading of the above case law the real question in this case which arises to my mind is whether the supplier of electricity can excuse himself by showing that the escape was owing to the petitioner's default. There is, however, little doubt on the other issues arising out of strict liability; burden of proof of escape of potentially dangerous thing causing injury wittingly or by surprise; standard of care required from Licensee which is circumspect statutorily under the Act and rules to do certain acts

and things in the manner specified; jurisdiction of this court to award compensation in appropriate cases in writ jurisdiction and the connected issue of quantification of compensation so that it is neither under compensation nor overcompensation etc.; that in the present case such factors tilt in favour of the injured and need not detain us. The claim made in the petition is an actionable claim and the case is an eminently fit one for grant of compensation in exercise of powers under Article 226 of the Constitution.”

9. In the present case so far as the presence of the deceased on the place of occurrence is concerned, the same is undisputed. The first version w.r.t. incident stands recorded in the FIR, on the statement of Kesar Singh, a close relative of the petitioners who reached at the spot after the incident occurred. The contents of the FIR read as under :-

“Stated that I reside at above mentioned address. I run a business of mobiles from by residence. My nephew Bhupinder Singh @ Kaku S/O Ranvir Singh resident of Laxmi Colony, Main Road, Kailash Nagar, Ludhiana was working with Jai Maa Interprises, 70 feet road, Sunder Nagar, which is owned by Mohit Kumar. His father Ranvir Singh runs a shop of electrical goods at Assam. As usual my nephew had gone to his duty with Mohit Kumar on 1-9-17 at 9 PM in the morning, then Mohit Kumar had sent Bhupinder Singh and Sandeep Kumar S/O Nand Lal resident of Street no. 2, Maya Puri, Tibba Road, Ludhiana by handing over his Activa bearing no.PB 10EL-1275, to carry out some work of the firm. Activa was being driven by Bhupinder Singh and Sandeep Kumar was pillion riding and it was raining. When Bhupinder Singh and Sandeep Kumar

reached street no. 2, Madhopuri Main Road Gaushala on the left side near a telephone pole at about 2.30 P.M. then a loose joint of the live electricity wire was touching the wall of a shop and because of that current was flowing through the wall and telephone pole and as left leg of Bhupinder Singh touched the pole and he being getting electrocuted fell in the water and Sandeep Kumar also suffered a severe shock. Being getting Electrocuted Bhupinder Singh had expired on the spot itself. Then Mohit Kumar informed me about this about this ”

10. Further the opinion w.r.t. cause of death as record in the Post-Mortem Report records that : *“the cause of his death is due to Cardio Respiratory Arrest as a result of Electric Current, which is sufficient to cause death in ordinary course of nature. Injuries are Ante Mortem in nature”*

11. In view of above, there can't be any denial to the fact that deceased died of electrocution. The source of electrocution was the telephone pole in which the current was running through loose electy. wire. Furthermore, the submission made in Para No.5 of the written statement of answering respondent to the effect that : “A mere electric shock cannot be perceived as negligence on the part of the department and death in question cannot be attributed to electrocution” is totally fallacious and baseless as the cause of death of the deceased has been medically proved in the Post-Mortem Report. Moreover, in the Text Book of Forensic Book of Forensic Medicine and Toxicology authored

by Krishna Vij it has been noticed at Page 177 that “**Most deaths from electric shock are from cardiac arrhythmia, usually ventricular fibrillation terminating in arrest.**”

12. In view of above, in the considered opinion of this Court the respondent-Corporation admittedly being supplier of electricity cannot evade its liability from being negligent. Resultantly, the respondents-Corporation is held negligent in the accident which led to untimely death of 22 year old Bhupinder Singh son of the petitioners.

13. Coming on to the question of compensation the principles governing computation of compensation in MACT have been relied upon by various Courts and the same do provide fair formula for the same. Resultantly, the compensation is computed as under :

Monthly salary of deceased Bhupinder Singh	=	Rs.12000/-
Age at the time of death of deceased was 24 years so multiplier applicable	=	18
Deduction to be applied	=	1/2
Future prospects as per law laid down by Apex Court in ‘ National Insurance Company Limited vs. Pranay Sethi and others ’, (2017) 16 SCC 680	=	50%
Loss of Consortium	=	Rs.1,00,000/- each petitioner
Funeral expenses	=	Rs.20,000/-

14. Keeping in view that the petitioners have suffered prolonged litigation since 2018 they are awarded litigation cost of Rs.1.00 lac.

15. Respondents are directed to release compensation to the petitioners within a period of eight weeks from the date of receipt of certified copy of this order.
16. Accordingly, the writ petition is allowed.

May 04, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No