

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

245

CWP-23262-2021

Date of Decision: 11.12.2023

BHANWARI DEVI AND ORS

... Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Himanshu Seth, Advocate
Mr. Sukhvir Singh Sahu, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. R.D. Bawa, Mr. Samuel Gill and
Mr. Dipanshu Kapur, Advocates
for respondents No.2 to 6

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 24.06.2020 passed, whereby the chief Engineer, Operation, DHBVNL, Hisar, has awarded an *ex-gratia* compensation of Rs.8,31,920/- calculated as per the Employees Compensation Act, 1923 on account of electrocution of Kuldeep Singh (PB) on 11.11.2015.

Counsel for the petitioners has argued that the petitioner No.1 is widow, while petitioner No.2 is the minor son and the petitioners No.3 and 4 are parents of deceased Kuldeep Singh, who was 29 years of age having a valid HMV licence and was working as Driver with one Gulab Singh resident of Sirsa. On 11.11.2015, Kuldeep Singh went to Sirsa and while on his way back, the hoarding in his transport vehicle came in contact with high voltage wire

which was hanging loose and passing over the shops. Due to this, he suffered electrocution and died at the spot. He was brought to General Hospital Sirsa, where he was declared as 'brought dead'. A DDR No.27 dated 11.11.2015 was lodged with the Police Station Sadar Sirsa, regarding the abovesaid death and post mortem examination was also conducted. As per the medical opinion, the cause of death in the case was due to electric shock and complications that were ante-mortem in nature and sufficient to cause death in the ordinary course.

It is argued by the learned counsel that deceased was 29 years of age as on the date of incident and he was earning a sum of Rs.12,000/- per month. He died as a result of negligence on the part of the respondent-Distribution Licensee in upkeep of the electricity wires which were hanging below the approved levels and touching the roof of the shops. It is averred that compensation awarded was lower and that the petitioners ought to have been awarded appropriate and adequate compensation.

Counsel for the respondent-Distribution Licensee has, on the other hand, not disputed the factum of the death of Kuldeep Singh on account of electrocution. It is averred in the reply dated 14.10.2022 filed on behalf of the respondents and also argued during the course of arguments that the claim of the petitioners was considered in terms of the policy notified by the respondent-Distribution Licensee dated 15.07.2019. The amount of compensation of Rs.8,31,920/- was calculated as per Rule-4 of the Employee Compensation Act, 1923 and has been disbursed to the petitioners. It is contended that the assessment having been done as per the applicable policy, they cannot be called upon to pay any higher compensation.

No replication has been filed to the written statement filed by the respondent-Distribution Licensee nor has any other argument been advanced.

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.

It is not disputed that the respondent-Distribution Licensee had notified a policy for grant of compensation vide notification dated 15.07.2019 in exercised of the powers conferred under Section 56(3)(vi) of the Haryana Electricity Reforms Act, 1997 read with The Electricity Act, 2003 and Article 44 of Articles of Association of respondent-Distribution Licensee. The petitioners applied for grant of ex-gratia financial assistance in terms of the said policy notified by the respondent-Distribution Licensee. The claim of the petitioners was considered by the respondent-Distribution Licensee as per the said policy and compensation was assessed in terms thereof under Clause -11. The respondent-Distribution Licensee passed the office order dated 24.06.2020 after considering the documents produced by the petitioners. The computation as well as multiplication factor was done as per the provisions of the Employees Compensation Act, 1923 and the payment of Rs.8,31,920/- had been made in accordance therewith.

Even though present petition has been filed for seeking enhancement of the compensation, however, the counsel for the petitioners has failed to refer to any provisions of the policy that have been violated by the respondent-Distribution Licensee while computing/assessing the compensation. There is no material put forth by the petitioners as to how and in what manner, the compensation assessed by the respondent-Distribution Licensee is improper or the provisions of Employees Compensation Act, 1923

have been ignored while assessing compensation. There is also no averment as to whether an improper factor has been applied by the respondent-Distribution Licensee. In the absence of any factual or legal error in computation of the compensation, the Award passed by the respondent-Distribution Licensee cannot be interfered with. Moreover, as the petitioners had applied to the respondent-Distribution Licensee for seeking compensation in terms of the policy, they cannot impugn the compensation so assessed by claiming that the compensation ought to be ascertained on any other formula. Having approached the respondent-Authorities for assessment and disbursement of compensation in terms of the notified policy, the computation thereof can only be done in terms provided thereunder and not on any other criteria. In the absence of any error in computation of the compensation in the manner as prescribed in the notified policy, any other criteria for assessment of compensation could not have been applied by the respondent-Distribution Licensee as the same is neither stipulated nor prescribed nor provided for in the said policy itself. The claim being lodged and considered under the notified policy, its legality and validity has to be tested as per the provisions contained in the said policy and unless any deficiency, defect or variance/diversion from the policy is noticed or established, such an Award cannot be faulted with.

The present writ petition is thus disposed of as misconceived.

The petitioners may, if so advised, take recourse to appropriate remedies as per law for seeking enhancement in the compensation.

DECEMBER 11, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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