

CWP-20242-2023

[1]

2023:PHHC: 120354

122

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

CWP-20242-2023

Date of decision: 13.09.2023

Sahiram Sharma and another

...Petitioners

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Mohit, Advocate for the petitioners.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in this petition is for seeking direction to the respondents No.1 to 5 to grant compensation to the petitioners on account of death of Ankit (grandson of petitioners) due to electrocution.

Learned counsel for the petitioners contends that grandson-Ankit aged 15 years had an excellent academic career. He had secured 80% marks in 9th standard and successfully qualified the course namely 'Haryana State Certificate in Information Technology (HS-CIT)' conducted by 'Haryana Knowledge Corporation Limited' by securing 84% marks. He was pursuing 10th Class from Government Model Sanskriti Sr. Sec. School, Bhattu Kalan, District Fatehabad (Haryana). However, on 30.07.2021, when deceased-Ankit went to the Tea Cart of his cousin, he sustained electrocution by touching electricity iron pole and got electrocuted. The post-mortem report of the deceased-Ankit was conducted as per which the

cause of death was cardiac arrest due to electric shock. A DDR No.16 dated 30.07.2021 was also recorded at Police Station Bhattu Kalan, District Fatehabad and the inquest proceeding also gave the cause of death due to electrocution. It is stated that a representation for grant of compensation was made by the petitioners to the respondents, however, vide memo bearing No.662 dated 09.03.2023, the same was declined on the ground that there was no lapse on the part of the respondents officials.

Notice of motion.

Mr. Vivek Saini, Advocate appears and accepts notice on behalf of respondent Nos.2 to 5 whereas Mr. Pankaj Mulwani, DAG, Haryana puts in appearance for respondent Nos.1 & 6.

Learned counsel appearing on behalf of the respondents contends that the respondents-DHBN had already notified the policy for grant of compensation on 15.07.2019, in exercise of powers conferred under Section 56(3) (VI) of the Haryana Electricity Reform Act, 1997 read with the Electricity Act 2003 in supersession of the policy earlier notified on 22.02.2017. He submits that the aforesaid policy stipulates grant of compensation to a private person for fatal accidents/non-fatal accidents on a no fault liability basis as well, subject to the incident having occurred with electrical network of the distribution licensee. He submits that in the event, the petitioner approaches the competent authority for seeking compensation as per the notification dated 15.07.2019 issued by the distribution licensee, the claim shall be considered in accordance therewith and appropriate financial assistance as prescribed therein shall be released to the petitioners.

When confronted with the fact that as to how order bearing

No.662 dated 09.03.2023 has been passed by the official respondents notwithstanding that the policy of compensation had already been notified on 15.07.2019 and that such policy stipulated grant of compensation, learned counsel for the respondents is not in a position to make any satisfactory response to the same.

Counsel for the petitioners however, has no objection if the petitioners are left open to approach the competent authority and submits that he had come to this Court only because the claim of the petitioners had been declined by the respondents vide aforesaid memo No.662 dated 09.03.2023.

I have heard learned counsel appearing on behalf of the parties and have gone through order dated 09.03.2023. I find that the said order suffers from illegality and miserably fails to refer to the notification issued by the distribution licensee itself providing for determination of the financial assistance/compensation in the event of electrocution from the network of the distribution licensee. The claim of the petitioners has been declined for reasons that they were not negligent and had no liability for the incident in question. Such a insensitive attitude and lethargy shown by the respondents has subjected the petitioners to unwanted litigation.

Notwithstanding that the Notified policy of the respondents provided for no fault compensation solely on principles of strict liability. Negligence was not a pre-requisite to extend a financial assistance and the respondent was liable for such compensation arising from accidents from the disproportion network. Such ministerial acts by the public servants not only defeat the object of welfare policies but also compound the hardship

and grief of the aggrieved. The same thus compels aggrieved to litigate for a relief for which he ought not to have filed a case.

Even though the State Litigation Policy repeatedly emphasizes that entitled benefits to the beneficiaries should not be deemed as a matter of routine and as a measure of avoiding responsibility of taking a decision. Absence of valid reason for consideration and non-consideration of its own policy is just another way of abdication of responsibility by the competent Authority. Such attitude and approach by the Authorities excessively increase burden not only on the courts but also on the state exchequer and earning state the status as a biggest litigant.

Hence, the present petition is disposed of while setting aside the order bearing No.662 dated 09.03.2023 passed by respondents and subject to payment of Rs. 11,000/- as costs to be deposited by the distribution licensee to petitioners herein.

In the event of the petitioners preferring claim petition before the competent Authority as per the Policy, the same should be decided by the Authorities within a period of four months from the submission of the claim after affording an opportunity of hearing to the parties concerned.

Petition stands disposed of.

13.09.2023

manoj

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No