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

**CM No.4162-CWP of 2023 in/and
CWP No.20661 of 2018 (O&M)
Date of decision : 10.03.2023**

Paramjit Kaur

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Meenu, Advocate
for the petitioner.

Mr. Sehajbir S. Aulakh, Asstt. Advocate General, Punjab.

Mr. Jagdeep Rana, Advocate
for the respondents-PSPCL.

PANKAJ JAIN, J.

CM No.4162-CWP of 2023

This is an application for placing on record document marked as Annexure P-13 and exemption from filing certified copy thereof.

For the reasons recorded in the application, the same is allowed. Document marked as Annexure P-13 is taken on record. Exemption from filing certified copy thereof is granted.

CWP No.20661 of 2018 (O&M)

This is a writ petition filed under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of

certiorari for quashing of order dated 22nd of January, 2018 whereby the claim of the petitioner seeking compensation has been rejected. Petitioner has further prayed for issuance of writ in the nature of mandamus directing the respondents to award compensation to the tune of Rs.30.00 lacs to the petitioner on account of unfortunate death of her 22 year old son due to negligence on the part of the respondents.

2. Petitioner unfortunately lost her 22 year old son Avtar Singh on the intervening night of 15.06.2015 – 16.6.2015 while on duty as Watchman at a warehouse of Punjab State Warehouse Corporation. She claims compensation that the death was on account of negligence of the respondents. She represented to respondent No.2- Punjab State Power Corporation Limited. However, her claim stands rejected vide order dated 22nd of January, 2018 (Annexure P-12). She seeks quashing thereof.

3. The brief facts that need to be noticed for adjudication of *lis* in hand are that the deceased Avtar Singh son of Gurdeep Singh was working as Watchman with Punjab State Warehouse Corporation on contract basis. He was posted at warehouse at Duneke District Moga. On the intervening night of 15.06.2015-16.06.2015 he was on night duty along with one Manjit Singh, Kirpal Singh and Pankaj. It is claimed that at 2.00 AM there was noise of barking of dog near the godown. Avtar Singh went near the wall of godown. Manjit Singh

heard noise of crying. When he along with Pankaj went on the spot they saw Avtar Singh was lying on the ground and a barbed wire had penetrated in his back and he was breathing his last. Avtar Singh died. Post mortem was conducted in which it was found that the cause of his death was “arrhythmias”. DDR No.16 dated 16th of June, 2015 was lodged on the statement of Manjit Singh son of Bhag Singh with Police Station Sadar Moga, District Moga. The petitioner represented to the respondents seeking compensation asserting that the death of her son namely Avtar Singh was on account of negligence of the respondent-Corporation. However, the Corporation did not respond to the representations made by the petitioner. The petitioner was thereafter constrained to serve legal notice upon respondents and thereafter filed CWP No.21546 of 2016 before this Court wherein this Court directed the respondent-Corporation as under :-

“Punjab State Power Corporation Ltd, Patiala Respondent no. 2 is directed to look into the matter, consider the self-contained legal notice dated 01.03.2016 (Annexure P-7) issued by petitioner and decide the same at an early date, by passing an appropriate order thereon, strictly in accordance with law and also keeping in view the judgment of this Court in Raman Vs. State of Haryana and others, 2013 (4) RCR (Civil) 425 and other directions issued by this court vide abovesaid order dated 15.11.2016. Let respondent no. 2 take the appropriate action within a period of two months from the date of receipt of certified copy of this order.”

4. Despite orders passed by this Court, the respondents still remained inert and the petitioner was again constrained to invoke contempt jurisdiction of this Court by way of COCP No.3797 of 2017 which was disposed off vide order dated 19th of December, 2017 in the following terms :-

“Learned State counsel submits that the aforesaid order shall be complied with at the earliest in any case not later than six weeks.

In view of above, no further direction is necessary.

In case, fresh cause of action accrues to the petitioner to invoke the contempt jurisdiction of this court, exemplary costs shall be imposed which would be deducted from the salary of the officer(s) responsible for delay/non-compliance.”

5. It was thereafter Corporation vide order dated 22nd of January, 2018 relying upon the report of AEE Moga held that the death of Avtar Singh is not proved to be electrocution and once the electrocution has not been held to be cause of death there is no reason to grant compensation as no negligence can be attributed to the Corporation.

6. Ld. Counsel for the petitioner asserts that it has come on record that the cause of death of the deceased is 'arrhythmias'. As per the Forensic Science deaths from electric shock occurred due to cardiac arrhythmias. Reliance is being placed upon Text Book of Forensic Medicine and Toxicology authored by Krishan Vij. She

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 respondent-Corporation being negligent is liable to pay compensation.

7. Per contra, Counsel for the respondent has reiterated the contents of the impugned order and has relied upon narrative report of Assistant Executive Engineer, PSPCL, North Moga wherein it has been claimed that before the incident of breaking of wire no person/consumer has registered any complaint with the Department and thus, the Department is not responsible for the incident.

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

9. In order to ascertain the extent of caution casted upon the respondent Corporation-licensee under the Electricity Act, 2003 it will be apt to peruse the relevant provisions of the Electricity Act, 2003, which read 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 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.

Explanation. - For purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant."

10. 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)

11. I may hastenly add here that even though 1910 Act stands repealed by 2003 Act but by virtue of Section 185(2)(c) these Rules continue to have effect. It is 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**', 2013(3) R.C.R. (Criminal) 653, 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.”

12. After going through plethora of judgments dealing on the issue the Court 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.”

13. Coming to the facts of 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 DDR, recorded on statement of Manjit Singh son of Bhag Singh whose presence on the spot is also not disputed. The contents of DDR read as under :-

“...Manjit Singh son of Bhag Singh r/o Lande ke, Caste Majhbi Sikh, aged about 50 years, Mob: 99147-80546 stated that I am resident street of Kewal Singh, MP of village Lande Ke. Me, my son Kirpal Singh, Avtar Singh son of Gurdeep Singh, Caste Majhbi, r/o Lande ke Pankaj R/o Moga are working as Chowkidars at the Godown of Punjab State Ware House. As usual we came on duty at about 6.00 PM then it will be the time about 2.00 AM. We heard the noise of barking of dog near the Godown then Avtar Singh went to see near the wall of the godown and then he heard the noise of crying. Then I alongwith Pankaj went to the spot then I saw that Avtar Singh was lying on the ground and barbed wire was penetrated in his back. When we

saw by keeping a side the wire then he was taking last breathe. Then we informed to the Security Incharge GA Avtar Singh, then we called the ambulance 108 on the telephone at the spot and then Avtar Singh was got admitted to the Civil Hospital. This occurrence was occurred due to the negligence of Electricity Board because our godown is surrounded by the barbed wire. There is electricity poll near the godown and one electricity wire was fell down on the barbed wire, reason being Avtar Singh suffered electric shock and died at the spot. No other person is at fault. Death of the Avtar Singh is due to the electric shock. I do not want to take any legal action against anybody. Statement has been recorded which is correct”

14. Further the opinion w.r.t. cause of death as recorded in the Post-Mortem Report records that : *“arrhythmia” which is antemortem and sufficient to cause death in the ordinary course of nature.*

15. At the same time, the post-mortem report records the following :-

- (i) Entry wound measuring 1x.2 cm on the right hand.
- (ii) Exit wound .5x.2cm on right great toe

16. As per Modi's Text Book of Medical Jurisprudence and Toxicology 14th Edition, the Post-Mortem Appearances – External in the case of death on account of electrocution are as under :-

“Post-Mortem Appearances – External - The face is generally pale, the eyes are congested and the pupils are dilated. Local lesions are found at the points of entrance usually in the hands or on fingers and exit of the electric current mostly from feet or opposite hand. Professor Jellinek has pointed out that the micropathological changes, as observed in the skin at the site of and electrical lesion, are a compression of the horny layer into a

homogeneous plaque, and an ironing out of the underlying papillary process. Occasionally fissures and hollows appear between the corneum and germinativum, but this is not invariable, and the surest sign that an electric current has passed is the coalescence into a star-shaped or rod-like structure of the basal cells in each group of the rete Malpighii. Evidence of blunt injury may be present according to the circumstances of fall, etc.

Internal. - The lungs are often found cedematous, and the other internal organs are congested. Minute haemorrhages are seen in the meninges, and Tardieu's spots are found on the pleurae, pericardium and endocardium. Ecchymoses may be noticed along the path of the current.”

17. Similarly as relied upon by the petitioner 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.”**

18. Coming on to the report of the Assistant Executive Engineer PSPCL, North Moga pressed upon by the respondent, this Court finds that even from the said report the fact w.r.t. breaking of wire installed for supply of electricity and the same lying on barbed wire stands corroborated. It has been claimed that since the land was lying uncultivated the motor was not working and it was not carrying current however at the same breath it has been stated that before this incident of breaking of the concerned wire no person/consumer has registered any complaint with the Department and thus, the

Department is not responsible for this incidence. Meaning thereby Department/Corporation is not sure about the status of the wire.

19. The fact of there being a supply wire and breaking thereof is not disputed. It is also not disputed that the broken wire was lying on the barbed wire of the godown. Deceased Avtar Singh died on the intervening night of 15/16th of June, 2015 after coming into contact with the barbed wire. The body had an entry wound on right hand and exit wound on the great right toe. Cause of death has been opined to be 'arrhythmia'. As per the Authentic Textbooks on Medical Jurisprudence the external appearance of the body especially 'entry wound on hand and exit wound on right toe' do suggest it to be a case of electrocution. It also stands corroborated by the Textbooks that electrocution does cause arrhythmias and in most of the deaths caused by electrocution cause of death is arrhythmias.

20. Thus this Court can safely conclude that it is a case of death on account of electrocution. The respondent-Corporation admittedly being supplier of electricity through broken wire cannot evade its liability merely for the reason that there was no complaint prior to incident. A tort-feasor involved in a hazardous activity which has an exposure to human life is fastened with strict liability. As per statutory rules, once there was an overhead wire installed over a premises, Corporation was responsible to maintain the same and to

ensure that the premises underneath is protected even in case the line breaks. Resultantly, the respondent Corporation is held negligent in the accident which led to untimely death of 22 year old Avtar Singh son of Gurdeep Singh.

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

Monthly salary of deceased Avtar Singh	=	Rs.5260/-
Age at the time of death of deceased was 22 year 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	=	48%
Loss of Consortium	=	Rs.55,000/-
Funeral expenses	=	Rs.15,000/-

22. Keeping in view that the petitioner has been saddled with the costs of approaching this Court thrice the petitioner is awarded litigation cost of Rs.1.00 lac.

23. Accordingly, the present writ petition is allowed.

March 10, 2023

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No