



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

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CWP-8189-2023 (O&M)

Date of decision: 19.10.2024

MITHLESH AND OTHERS

.....PETITIONERS

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED AND OTHERS

.....RESPONDENTS

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

Present:- Mr. Rajiv Kumar Saini, Advocate
for the petitioners (through VC)

Mr. Vivek Chauhan, Advocate
for respondents No. 1 to 3.

VINOD S. BHARDWAJ , J. (Oral)

1. Challenge in the present petition is to the order dated 22.11.2022 (Annexure P-17) passed by the respondents No. 3- Chief Engineer (OP) UHBVN Rohtak, whereby a compensation of Rs. 5,13,320/- has been awarded to the petitioners on account of electrocution death of Rajendera notwithstanding that the petitioners are entitled to a higher compensation under the policy dated 08.07.2019 notified vide notification No. 155/CGM/Admn/REG-13/L by the respondent Uttar Haryana Bijli Vitran Nigam Limited.

2. Briefly summarized the facts of the present case are that one Rajendra was working as Foreman in M/s Ohana Overseas, Village Nagla Megha, Meerut Road Karnal. He was employed in the said Rice Mill since

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31.03.2012 till the date of his death and he was drawing a salary of Rs. 22,000/- per month.

3. On the fateful day deceased Rajendra and Narinder Kumar son of Jagdish Chand had been called by the officials of the Distribution Licensee due to some fault in the power house. They refused to report there, whereupon the request was made to the employees deceased Rajendra and Narinder Kumar. Consequently, they went to the power house but died in an unfortunate incident due to electrocution. FIR No. 215 dated 24.02.2019 was registered under Section 304-A IPC and death certificate was issued on 06.03.2019. As per the post mortem examination and report dated 24.02.2019, Rajendra had died due to electrocution, which was sufficient to cause death in natural course of life.

4. The petitioners accordingly raised a claim for grant of compensation and the same was not accepted, CWP-33533-2019 was preferred before this Court. The said writ petition was disposed of vide order dated 24.08.2022 directing the respondents to decide the legal notice within a period of three months of the receipt of certified copy of the same. In compliance thereto, the respondents passed order dated 22.11.2022, impugned herein, whereby a compensation of Rs. 5,13,320/- has been awarded to the petitioners, and the same reads, thus :

“Office order No. 244

Dated: -22/11/22

Sanction is hereby accorded under the DOP No-88 B of Revised Delegation of Power-2020 to the payment of compensation of Rs. 5,13,320/- (Rs. Five lacs thirteen thousand three hundred twenty only) in terms of Employees

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Compensation Act-1923 and advice tendered by LR. HPU, Panchkula in FA case of Sh. Rajinder Kumar who was alleged to have been electrocuted on 23.02.2019 to be paid to the legal heir of deceased i.e Smt Mithlesh W/o Late Sh Rajinder Kumar R/o Chhapar Talla, Dubha Bazar, Gonda, Colonetganj, Uttar Pardessh, as per recommendation given by SE/OP: Circle, UHBVN, Karnal.

The above sanction is without Prejudice to all such exception rights and legal aspects that the Nigam may take in case this order is challenged on any account and is further subject to the following:-

- 1. If any amount of compensation has already paid to the legal heir of deceased i.e Smt Mithlesh R/o Chhapar Talla, Dubha Bazar, Gonda, Colonetganj, Uttar Pardessh, may be adjusted from the amount now paid/sanctioned.*
- 2. That an undertaking in writing be obtained from the legal heir of deceased i.e Smt Mithlesh R/o Chhapar Talla, Dubha Bazar, Gonda, Colonetganj, Uttar Pardessh, regarding their acceptance of the amount in full and final settlement of their claim.*
- 3. The expenditure on this account is debited to the Head concerned. The detailed Head may be written on the vouchers.*
- 4. The payment be made strictly as per the order dated 24.08.2022 passed by Hon'ble Punjab & Haryana High Court, Chandigarh*

The above sanction has been accorded by the C.E/OP UHBVN, Rohtak at NP-11 in file No. AC/KNL-2033.”

- 5. Aggrieved thereof, the petitioner approached this Court alleging that the petitioners were entitled to a higher compensation since the*

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salary certificate produced by them specifically established that deceased was drawing a salary of Rs. 22,000/- per month and that a multiplication factor of 131.95 was to be applied as per the provisions of the Employees Compensation Act, 1923 and that the minimum compensation admissible to the petitioners under the policy dated 08.07.2019 notified by the respondents worked out to be Rs. 29,02,900/-.

6. Learned counsel for the respondents, however, refers to the reply to contend that the admissible compensation under the Policy has already been paid and that the petitioners have accepted the same as full and final settlement and that they are at liberty to approach the Civil Court, in case they are not satisfied with the quantum of compensation/ financial assistance released by the respondent- Distribution Licensee.

7. He contends that the notification issued in the year 2010 fixed the salary at Rs. 8,000/- per month and the same has been taken into consideration by the respondent-Distribution Licensee while computing the compensation / financial assistance to be awarded to the petitioners by the respondents.

8. Learned counsel for the respondent- Distribution Licensee has been confronted with the specific averment made by the petitioners in para no. 11 about the salary being drawn by the deceased and the same being produced before the authorities. He has also been confronted with the fact that the impugned office order No. 244 dated 22.11.2022 does not deal with the said evidence. Thus, *prima facie*, it is a case where the respondents have passed the impugned order, disregarding the documentary evidence

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pertaining to the salary that had been produced before the authorities and have chosen to arbitrarily accept the basic salary according to the 2010 notification.

9. In view of the above, I am of the opinion that in the absence of commenting upon the evidence that was submitted by the petitioners as a proof of income of the deceased Rajendra, the respondents would not be justified in disregarding the said evidence and go by the base salary as notified by the Government of India in the year 2010 whereas the incident took place in the year 2019. The impugned order, thus, suffers from non-appreciation of evidence and is, thus, liable to be set aside.

10. The present writ petition is accordingly allowed. The order dated 22.11.2022 (Annexure P-17) is set aside. The matter is remanded to the competent authority to pass a fresh decision in accordance with law and after taking into consideration the evidence that may be adduced by the petitioners to prove their entitlement.

19.10.2024
Satyawar

(VINOD S. BHARDWAJ)
JUDGE

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