

2024:PHHC:115941



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

CWP-14040-2021

Judgment reserved on : 29.08.2024

Judgment pronounced on: 04.09.2024

AJITPAL KAUR AND OTHERS

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: - Mr. Rohit Singla, Advocate for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Harsimar Singh Sitta, Advocate for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

1. The prayer in the present petition is for directing the respondent authorities to pay compensation on account of death caused due to electrocution of deceased Kuldeep Singh husband of the Petitioner No. 1, father of Petitioner No. 2 and son of Petitioner No. 3 and 4 to the tune of Rs. 50 Lac along with interest @ 18 percent per annum w.e.f 29.06.2017.

Facts of the case:

2. The deceased Kuldeep Singh was statedly working as a carpenter at his shop situated in Bathinda. He was the sole earning member of his family comprising of the present petitioners. On 29.06.2017, the

**CWP-14040-2021**

-2-

deceased Kuldeep Singh went to check the waterlogging in his shop due to heavy rainfall. On his way back from the shop at around 07:00 AM, the deceased Kuldeep Singh got electrocuted from the electricity current flowing/leaking from the nearby electricity pole into the accumulated water on the road near Neem Wala Chowk.

3. People from the nearby area gathered at the spot seeing the deceased Kuldeep Singh lying unconscious in the pool of water. They were unable to pull the deceased away from the spot of incident as there was still a flow/leakage of electricity into the pool of water.

4. With the assistance from an NGO namely Sahara Welfare Society, an ambulance was sent to the place of incident and electricity supply to the pole was shut down to facilitate evacuation of the deceased for medical help.

5. The body of Kuldeep Singh was taken to Civil Hospital, Bathinda, where he was declared dead and thereafter the body was shifted to mortuary. Post-Mortem was conducted in the abovementioned hospital wherein the cause of death was mentioned as heart failure. The aforesaid Post Mortem report dated 29/06/2017 and death certificate dated 03/07/2017 is annexed herewith as Annexure P-2 and Annexure P-3 respectively.

6. On the day of incident, a DDR No. 014 dated 29/06/2017 was recorded on the statement of Petitioner No.4 Gurdev Singh, father of the petitioner, wherein all the aforesaid facts were mentioned tersely.

7. After the incident, an ex-gratia amount of Rs. 5,00,000/- was paid to the petitioners herein from the Chief Minister Relief Fund of Punjab

on the recommendation letter of the Deputy Commissioner Bhatinda. The

**CWP-14040-2021**

-3-

said recommendation letter dated 03/07/2017 is annexed herewith as Annexure P5.

8. An application before the District Collector, Bathinda was filed under Section 6 of the Public Utility Insurance Act, 1991 on 19/09/2017 claiming compensation of Rs. 1,00,00,000/- from the respondent authorities (Annexure P6). The reply to the said application was filed by the respondent authorities on 14/11/2017 (Annexure P7). The replication by the petitioners was filed on 05/12/2017 (Annexure P8).

9. In pursuance of the aforesaid application a Factual Inquiry Report was submitted by the Sub-Divisional Magistrate, Bathinda vide letter dated 23/10/2018 (Annexure P9) to the District Collector, Bathinda for adjudication of the claim-application of the petitioner. The said report concluded that the deceased Kuldeep Singh died due to heart attack and submitted that the reason of the heart attack due to electrocution cannot be ruled out. A detailed inquiry was also conducted by the District Collector, Bathinda wherein witnesses of the claimants and respondents authorities were examined and cross-examined. The District Collector relied on the Factual Inquiry Report submitted by the SDM, Bathinda while also considering the statement of the witnesses and dependents of the deceased who submitted that the deceased was not suffering from any disease or was undergoing any medical treatment. On the basis of the inquiry, the District Collector, Bathinda partially accepted the claim of the petitioners and made an award of Rs. 25,000/- dated 16/02/2021 (Annexure P10) to the claimants due to the maximum limit imposed by Section 3 of the Public Liability Insurance Act, 1991 read with the annexed schedule in the act. Feeling

**CWP-14040-2021**

-4-

aggrieved of inadequate compensation, the present writ petition has been filed.

10. The PSPCL in its reply has not disputed the grant of the ex-gratia amount of Rs. 5 lakhs to the petitioners or the award under the Public Liability Insurance Act, 1991 but have disputed and denied about the death having been caused by electrocution. It is contended that the above said amount has been given as a financial assistance to the family in penury and is not acknowledgment of the liability or the manner of accident. Reference is made to the Post Mortem report to contend that death is due to cardiac failure and there is no link established that the cardiac arrest was due to electrocution. Hence, being prima-facie a natural death and in the absence of direct proximity of death with electrocution, liability cannot be fastened against the distribution licensee. The area where death took place is a densely populated commercial area and there has been no complaint of any other person having suffered any electrocution. Inspection of the spot was conducted by the personnel of the licensee and no negligence or signs of live wire could be determined and there was no leakage. The officials themselves stood in the accumulated rain water with current flowing, but no leakage or discharge of current was detected. A detailed narrative report was submitted by the Er. Mandeep Singh and others who were part of the team. It was also reported that the feeder did not trip even once despite being equipped with earth-cum-protective system which would have been a case if there was some earthing or short circuiting or leakage of current.

Arguments On Behalf Of Petitioners:

**CWP-14040-2021**

-5-

11. Learned counsel on behalf of the petitioners contend that the demise of the deceased Kuldeep Singh occurred due to the gross negligence on the part of the respondent authorities and the impugned inaction of the respondent authorities of not paying the compensation claimed by the petitioners is illegal, arbitrary, unjust and unfair.

12. It is contended that under Rule 29, 44, 45 & 46 of the Electricity Rules, 1956 the respondent authorities have a statutory duty to ensure safety of electricity supply lines so that no harm is caused to any human or animal life. And through their negligence they have caused gross breach of their statutory duty.

13. Reliance is placed on the case of Ruby & Ors. v. State Of Haryana & Ors reported as 2019 (4) R.C.R. (Civil) 928 (Annexure P12) wherein this court has upheld the liability of the power supply company to pay compensation to any person who died due to electrocution and had awarded adequate compensation to the dependents of the deceased.

14. It is submitted that the Post-Mortem report prepared by Civil Hospital, Bathinda mentions the reason of death as heart failure. But the Factual Inquiry Report submitted by the SDM, Bathinda clearly mentions that it cannot be denied that the reason of heart failure was electrocution.

15. The counsel vehemently contends that a detailed inquiry into the matter was also conducted by the District Collector, who accepted the findings of the Factual Inquiry Report and held that it cannot be denied that the cause of the heart failure was electrocution and awarded Rs. 25,000/- to the dependents of the petitioner vide award dated 16/02/2021.

**CWP-14040-2021**

-6-

16. The counsel contends that an ex-gratia amount of Rs. 5,00,000/- was granted from the Chief Minister Relief Fund of Punjab on recommendation by the Deputy Commissioner, which in itself is a clear admission of the fact that the deceased died due to heart failure caused by electrocution as a result of negligence of the responded authorities and not due to natural reasons as he was a healthy person as per the statement given by the dependents of the deceased Kuldeep Singh to various authorities.

17. The counsel places reliance on the case of ***“Deepak Sharma & Ors. v. State of Haryana & Ors.”***, CWP 12894 of 2023 decided on 09/05/2024 wherein this court awarded an interim compensation of Rs. 5,00,000/- to the petitioners on account of death of their son due to electrocution by coming in contact with a heavy electricity line. He further mentions that in the case of ***“Smt. Nilabeti Behera @ Lalita Behera v. State Of Orissa & Ors.”*** reported as ***1993 AIR (SC) 1960*** wherein the Hon’ble Supreme Court held that the State is compelled to provide compensation as a remedy in public law and cannot escape its liability for violation of fundamental rights under the guise of sovereign immunity.

18. The counsel also relies on the case of ***“UP State Electricity Board & Anr. v. District Magistrate, Dehradun”*** reported as ***1998 AIR (Allahabad) 1*** wherein the Allahabad high court held that electricity is a hazardous substance and that Section 3(2) of the Public Liability Insurance Act, 1991 places a strict liability in cases of accidents caused due to hazardous substance.

Arguments On Behalf Of Respondents:

**CWP-14040-2021**

-7-

19. Controverting the submissions made above, learned counsel on behalf of respondents contends that the petitioner has not brought forth all the relevant facts and suppressed material pertaining to the case and that the petitioners have already received a sum of Rs. 5,00,000/- and Rs. 25,000/- as compensation from the State Government and the District Collector respectively and the same is not an admission or acknowledgment of a liability. The documentary evidence does not support the case of the petitioner.

20. It is submitted by placing reliance on the post-mortem report that the deceased Kuldeep Singh died of natural causes i.e. due to heart attack and not due to electrocution. Hence, the respondent authorities are not liable to pay any compensation to the petitioners.

21. Further, reliance is placed on the averments contained in the written statement to contend that on the day of the accident, there were no other complaints regarding leakage of current from the pole in question and that the site of accident is a densely populated area with heavy footfall and traffic and that some other persons may also have received the electric shocks or must have known about the same. Neither were there any complaints received for faulty wire or leakage of current through the pole in question nor were there any other incidents of electric shock or electrocution.

22. The counsel argues that a thorough inspection was done by the personnel of the respondent authorities immediately after the sad demise of the deceased. Assistant Engineer A.E Bhagta and Junior Engineer J.E.

Rasham Singh visited the site and conducted inspection of the wires and the

**CWP-14040-2021**

-8-

pole as well as any possibility of leakage of electricity. In the narrative report submitted by them they have stated that immediately after the intimation of the accident, they reached the spot of accident and got line patrolling conducted and found no evidence of electricity flow/leakage in the accumulated water. In addition they also checked the flow/leakage of electricity by standing in the water after resuming the electricity supply and concluded that there was no current/leakage in it.

23. Further, the counsel argues that the system is equipped with Earth cum Protective System, which automatically switches off the electric supply in the case of anyone coming in contact with a live electric wire. And that the system did not even trip once indicating the fact that the deceased did not die of electrocution.

24. The counsel places reliance on the case of ***Chairman, Grid Corporation Of Orrisa Ltd. v. Sukamani Das & Ors*** reported as (1999) 7 SCC 298 wherein the Supreme Court while dismissing the catena of appeals observed that in such cases, the appellants deserve an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines, and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioner. A death could not be presumed to have been caused by negligence and due to electrocution merely on occurrence of the death. The court also held that it is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.

**CWP-14040-2021**

-9-

25. The counsel contends that since the deceased had not died in a manner as stated by the petitioner which is also evident from the post mortem report which states the cause of death as heart failure and not electrocution, the present petition is not maintainable and is liable to be dismissed.

26. No other arguments were advanced/have been raised by the counsel for the parties and no further judgments were relied upon.

Consideration:

27. I have heard both the parties and have gone through documents on record with their able assistance.

28. The claim of the petitioners as put forth by their counsel is based on the statements given by the dependents of the deceased that he was a healthy person and not suffering from any disease and that the accumulative findings of the Factual Inquiry Report by the SDM, Bhatinda, the Detailed Inquiry conducted by the District Collector, Bhatinda conclude that the cause of heart attack cannot be ruled out to be due to electrocution. Also, the grant of compensation of Rs. 5,00,000/- from the Chief Minister Relief Fund of Punjab, on recommendation by the District Commissioner, is held as an admission of the fact that the deceased died due to heart failure caused by electrocution, as a result of negligence of the responded authorities.

29. In so far as reliance on the case of *Deepak Sharma & Ors. v.*

State of Haryana & Ors. (supra) wherein this court awarded an interim

**CWP-14040-2021**

-10-

compensation of Rs. 5,00,000/- to the petitioners on account of death of their son is concerned, the same was awarded only on compassionate grounds and without going into the merits of the controversy involved in the case. The counsel also relied on the case of *Smt. Nilabeti Behera @ Lalita Behera v. State Of Orissa & Ors. (supra)* wherein the Hon'ble Supreme Court held that the State is compelled to provide compensation as a remedy in public law and cannot escape its liability for violation of fundamental rights under the guise of sovereign immunity. The ratio of the judgment is not denied but the same is not completely attractive of the facts of this case. The petitioners have even otherwise already received a compensation of Rs. 5,00,000/- from the Chief Minister Relief Fund of Punjab.

30. Further the counsel for petitioners refers to the case of *UP State Electricity Board & Anr. v. District Magistrate, Dehradun (supra)* wherein the Allahabad high court held that Section 3(2) of the Public Liability Insurance Act, 1991 places a strict liability in cases of accidents caused due to hazardous substance. In the case at hand, the petitioners have already availed this remedy and have received a sum of Rs. 25,000/- as a compensation from the District Collector due to the maximum limit imposed by Section 3 of the Public Liability Insurance Act, 1991 read with the annexed schedule in the act.

31. However, contradicting the claims of the petitioner, the counsel for the respondent contends that the post mortem report of the deceased clearly states that the cause of death is due to heart attack only which is a natural cause of demise and that nowhere in the post mortem report it is mentioned that the death was caused due to electrocution. He also places

**CWP-14040-2021**

-11-

reliance on the narrative report submitted by the employees of the respondent authorities wherein they have mentioned that on inspection no issue of flow/leakage of electricity into the accumulated pool of water was found and that the electricity system is equipped with Earth cum Protective System, which automatically switches off the electric supply in the case of anyone coming in contact with a live electric wire.

32. It is also noticed that even though the reply was filed by the respondents in September, 2022, however, no rejoinder was filed denying the specific objection of the respondents. Even the report filed with the reply was not disputed. Besides, the conclusion drawn about the proximity between cause of death and electrocution are *prima facie* conjectural rather than on unimpeachable evidence. The said aspect needs to be ascertained after leading evidence and determining the cause as well as the appropriate compensation. A mere grant of financial assistance cannot be deemed as acknowledgment of a liability and admission of negligence.

33. The present petition hence raises disputed question of facts as to the cause of death of the deceased and whether the heart failure happened due to natural causes or was it induced due to the incident of electrocution. Apart therefrom, an additional issue pertaining to the determination of negligence on the part of the respondent authorities thereon shall also arise. The High Court, thus, would not be an appropriate Forum to adjudicate upon the disputed questions of fact under Article 226 of the constitution as it requires leading of evidence and examination of witnesses. Besides, compensation to the tune of Rs. 5.25 lakh already stands released under

**CWP-14040-2021**

-12-

different proceedings in favour of the petitioners, which is in the nature of an interim relief.

34. The present petition is accordingly **dismissed at this stage** with the liberty to the petitioners to take recourse to the appropriate alternative remedy available to them, in accordance of law for seeking compensation on account of death of Kuldeep Singh, if so advised.

35. In the event of the petitioners seeking such remedy, the period spent in pursuing these proceedings should be considered sympathetically while construing limitation.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 04, 2024
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No