



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-16218-2018 (O&M)
Date of decision: 30.08.2024

Annu @ Maina and others

...Petitioners

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Sandeep Kotla, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG Haryana.

Mr. Sumit Jain, Advocate for respondents No.2 to 5.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for issuance of a writ in the nature of mandamus for directing the respondents to grant the compensation to the tune of Rs.50 lakhs to the petitioners on account of death of Ajay s/o Kalu Ram alleged to have been caused as a result of negligence on the part of respondents, along with interest.

2. Briefly summarized the facts of the present case are that Ajay, since deceased, was the husband of petitioner No.1-Annu @ Maina and was a junk dealer living in Jhugi at Ashok Nagar, Fatehabad. On the fateful day i.e. on 03.11.2014, Ajay (since deceased) along with his cousin Mahender s/o Shekhu Ram was crossing from "schoolwali gali" (street) adjoining the Arorvansh Dharamshala. Ajay then went to a nearby vacant plot to urinate



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and while he was urinating, he encountered a bare high voltage electric wire left un-insulated by the electricity department and got electrocuted. Subsequently, FIR No.707 dated 03.11.2014 was got lodged under Section 304-A of IPC at Police Station, City Fatehabad.

3. Ajay was taken to the Govt. Hospital, Fatehabad where the doctors declared him brought dead. A post-mortem was conducted on the body of the deceased Ajay vide PMR no. HS-2014/11/GH FBD dated 04.11.2014 and following injuries were found on the body due to electrocution:

1. *Multiple superficial to deep burns present on the palmer aspect of the left hand over the palm and proximal & middle phalanges over palmer aspect of all the four fingers of left hand & palm lateral aspect of the left thumb terminal phalanx, of variable sizes and shapes ranging from 2cm x 1.5 cm to 4cm x 1.3cm. Wounds of exit of current (a) Multiple superficial burn day present on the anterior and anterolateral aspect of the left chest. 14 in no. ranging from 0.2cm x 0.2 cm to 2cm x 1 cm in size (b) Multiple superficial burns present on the lower abdomen more on left side ranging from 2cm x 1cm to 6.5 cm x 3cm, three in no (c) Multiple superficial burns present on the right side of face over the right forehead, right upper eye lid, right infraorbital region & lateral orbital region, over the right nostril, upper lip outer aspect, and right chin of varying sizes and shapes ranging from 0.2 cm x 0.2 cm to 3cm x 1.5cm in*



sizes (3). Two lacerated wounds of sizes 0.5cm x 0.1cm x 0.1cm to 0.6 cm x 0.1 cm present on the lower lip in the midline, clotted blood present (4) Two abrasions of sizes 0.5 cm x 0.4cm to 1cm x 1cm in size. Red in colour. Clotted blood present (5) three abrasions present on the posterior aspect of the right elbow joint of sizes 0.5 cm x 0.5cm to 1cm x 0.8cm in sizes. Red in colour. Clotted blood present. **(6) A superficial burn of size 8 cm x 2.5 cm present on the B/L scrotal region, on dissection of all the burns the underlying skin is dry and hard.**

4. An FIR was got lodged against the electricity department for leaving bare electricity wire unattended because of which Ajay (since deceased) husband suffered severe burn injuries and succumbed as a result thereof. Petitioners also demanded compensation from the electricity department.

5. Since no heed was paid by the electricity department on the request and the demand raised by the petitioners, a legal notice dated 11.04.2015 was served to the department in the name of respondent No.2- Chairman, Haryana Bijli Vitran Nigam Ltd, Panchkula, respondent No.4- Executive Engineer, DHBVNL, Fatehabad as well as respondent No.5- Sub-Divisional Officer, DHBVNL, Fatehabad wherein the petitioners demanded a compensation of Rs. 17,83,000/- as the deceased Ajay (husband of petitioner No.1) was working as a scrap vendor and earning more than Rs 10,000 per month. The petitioners further requested the Electricity Department to appoint a Chief Electrical Inspector and an Electrical



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Inspector under Section 162 of Electricity Act, 2003 and to take action against erring officials of the department under Section 176 of IPC, 1860.

6. Respondent No.5- SDO (OP) City S/Divn, DHBVNL, Fatehabad filed a reply to the Legal Notice dated 11.04.2015 vide Memo No. 629 dated 13.05.2018. According to the reply, the information regarding electrocution of deceased Ajay at Arorvansh Dharamshala, Fatehabad was given to the Electricity Department on 03.11.2014 itself. Thereafter, the supply of that area was switched off and a Junior Engineer along with his staff reached the site. It was found that there was a live insulated cable in the hand of the deceased and it has been alleged that the deceased had a malafide intention to steal the aluminium conductor contained in the cable. A bag having old plastic and waste paper was also found lying near the deceased. An eyewitness told the authorities that the service cable had been properly installed and that the deceased was trying to steal the aluminium conductor for earning money as a result whereof, he got electrocuted due to his gross negligence.

7. Written statement on behalf of respondents No.2 to 5 was also filed on 12.11.2018. It was averred that the competent authority under Section 161(2) of the Electricity Act, 2003 i.e. Chief Engineer OP DHBVN, Hisar vide office order No. 526 dated 05.09.2018, closed the case of compensation after conducting a thorough investigation by concluding that the deceased Ajay died due to his own negligence and greed.

8. Learned counsel for the petitioners argued that it was evident, on a bare perusal of the post-mortem report, that Ajay had suffered multiple



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injuries on the palm of left hand, multiple superficial burn injuries on the left side of chest and lower abdomen as well as superficial burn injuries on B/L scrotal region because of electrocution on account of contact with the live high voltage electricity wire while urinating. He also argued that burn injuries on the deceased's private parts (scrotal region) would not have been possible in a case of simple electrocution (if he would be stealing wire).

9. Learned counsel for the respondent-State relied on the aforesaid reply as well as the written statement and argued that the electrocution occurred because of negligence of petitioner No.1's husband and that all the circumstances and evidence prove that the respondent Nigam was not at fault for the accident.

10. No other argument has been raised.

11. I have heard learned counsel for the respective parties and have gone through the documents appended along with the present petition.

12. As far as the reliance placed by Learned counsel for the respondent-State on the reply to the Legal Notice dated 11.04.2015 and the written statement is concerned, the same does not entirely seem to be correct since it is quite unlikely that the deceased could have received burn injuries on the scrotal region while trying to steal the aluminium conductor because the scrotal region is covered by clothing in ordinary course. Hence, the argument made by learned counsel for the petitioners that the deceased Ajay went to urinate in the vacant plot located in Arorvansh Dharamshala, Fatehabad and succumbed on account of electrocution due to contact with bare live high voltage wire is highly plausible and probable.



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13. However, as disputed questions of fact would arise in relation to the death of the deceased on account of electrocution, hence, without going into the merits of the present controversy, this Court deems it appropriate to award an interim compensation of Rs.3,00,000/- (Rupees Three Lakhs Only) to the petitioners. A sum of Rs.2,00,000/- be released in favour of petitioner No.1 while the remaining amount of Rs.1,00,000/- be released in favour of petitioner No.2.

14. The amount awarded above be released within a period of 03 months of the receipt of certified copy of this order. The petitioners may, if so advised, take recourse to alternative remedies for seeking enhancement of compensation in accordance with law.

15. The period during which the present petition has remained pending before this Court shall be excluded while computing the limitation.

16. The present petition is disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

30.08.2024
Mangal Singh

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