

2024:PIIIC:077227



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

206-3

**CWP-21721-2017
Date of Decision: 24.05.2024**

YOGITA

... Petitioner

VERSUS

MANAGING DIRECTOR UHBVN AND OTHERS

... Respondents

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

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Sunil Kumar Dhanda, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for seeking quashing of order dated 09.05.2017 (Annexure P-9) passed by respondent No.2, vide which the claim of the petitioner on account of amputation of her right arm as a result of electrocution due to negligence of the respondents, has been rejected.

Learned counsel for the petitioner contends that the petitioner was a minor girl of 07 years, when she suffered electrocution on 09.05.2016 while playing on the roof of her house. She lost her balance and touched the high intensity electric wire which was passing through the gali/street adjacent to her house. She was immediately rushed to Apex Hospital and Trauma Centre and remained admitted till 12.05.2016. She was thereafter, referred to PGIMS, Chandigarh, where she remained admitted till 26.05.2016 and had to be operated upon by amputating of 1/3rd of her right upper arm at forearm level, which led to 70% of permanent disability. It is submitted that the same was

**CWP-21721-2017****-2-**

occasioned as a result of negligent and irresponsible upkeep of the transmission lines by the officials of the UHBVNL at Panipat and a General Diary entry was also recorded on 12.05.2016 at Police Station Chandni Bagh with regard to the incident. The petitioner had earlier approached this Court for by way of CWP No.3141 of 2017, which was disposed of by this Court with a direction to the respondent No.2 to decide the claim of the petitioner vide order dated 20.04.2017. However, the claim was declined by the respondents vide order dated 09.05.2017. The counsel appearing on behalf of the petitioner submits that the petitioner suffered a permanent disability to the extent of 70% and has become crippled for rest of her life and that no compensation has been granted to her.

Counsel for the respondent-Distribution Licensee submits that the electrocution was not on account of any negligence on the part of the respondent-Distribution Licensee and that on coming to know about the incident, the matter was inquired into by the Competent Authority, whereupon it was found that electric lines were passing through the said area since long time and that the residents of the locality have raised construction near the existing transmission lines against the rules and regulations. Notices for removal of the constructions were given to the residents on 12.04.2016 but the needful was not done. As per the report dated 09.05.2016 submitted by the Engineer A.K. Raheja, Superintending Engineer (OP) Circle UHBVNL, Panipat, Devender Naik- father of the petitioner had constructed a new house near 11KV line without getting the high tension lines shifted at a safe distance from the property. The petitioner was playing on the newly unauthorized casted

**CWP-21721-2017****-3-**

roof slab (Chhajja) of the house was not having any parapet wall or railing and the petitioner was looking towards the other children playing in the street, whereupon, she lost her balance and touched the 11 KV line, resulting in electrocution. It is submitted that the incident in question could have been averted if the roof slab (Chhajja) would not have been extended towards the street. The negligence was thus attributed to the father of the petitioner having exposed the petitioner to danger.

Vide order dated 13.09.2019, the respondent-Distribution Licensee was directed by this Court to pay an amount of Rs.10,00,000/- as interim compensation. It is submitted that the aforesaid amount has already been released in favour of the petitioner.

Counsel for the petitioner contends that the abovesaid amount is, however, insufficient since a permanent disability to the extent of 70% has been suffered by the petitioner and that an appropriate determination of the compensation ought to be done.

Heard.

I am of the opinion that the said determination would require leading of evidence by the respective parties and that in the event the petitioner is not satisfied with the interim compensation granted by this Court, there is no occasion for this Court to keep the matter pending. The petitioner may, if so advised, approach the Civil Court for seeking just and appropriate compensation by leading evidence and showing the loss that may have occasioned as a result thereof.



CWP-21721-2017

-4-

The present writ petition is accordingly disposed of with liberty to the petitioner to approach the Civil Court for seeking just and appropriate compensation.

In the event the compensation awarded by the Civil Court, on consideration of the evidence, is more than the amount already paid to the petitioner under the orders of this Court, the respondent-Distribution Licensee shall be entitled to set off the amount already deposited and would be liable to pay the remaining amount only. However, there would be no liability on the petitioner to refund any excess amount in case the compensation assessed and awarded by the Civil Court falls below the amount of interim compensation already granted by this Court.

It is further observed that the period, during which the present writ petition has remained pending before this Court, shall be taken into consideration by the Civil Court while computing limitation.

The petition stands disposed of accordingly.

MAY 24, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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