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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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CWP-17266-2024 (O&M).
Date of Decision: 25.07.2024.

AARTI @ ARTI AND OTHERS

... Petitioners

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Samar Sharma, Advocate, for
Mr. Jagmohan Ghuman, Advocate,
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana,
for respondents No.1, 2 and 6.

Mr. Vivek Saini, Advocate,
for respondents No.3 to 5 and 8.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated
03.05.2024 (Annexure P-8) passed by respondent No.8 i.e. Chief Engineer,
Operations, Dakshin Haryana Bijli Vitran Nigam Limited.

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Learned counsel appearing on behalf of the petitioner has argued that the petitioner No.1 is a widow; petitioners No.2 and 3 are minor daughter and son; while petitioner No.4 is the mother of Vikash Kumar who died due to electrocution on 25.04.2018 in his village Kotia, Tehsil Kanina, District Mahendergarh. He contends that the deceased Vikash Kumar was serving in the Indian Army for the last nine years and was drawing a salary of Rs.45,000/- per month. The respondents Distribution Licensee had erected poles for supply of electric power in a thorough passage right next to the house of the petitioner at an ordinary height and electricity wires of 11000 KV were passing through the same. Requests were made on many occasions to the respondents to shift the electric wires but no steps were taken. On 25.04.2018, deceased Vikash Kumar was bringing down domestic articles and other types of luggage from the first floor of his residential house. The loose wires hanging on the low lying poles started swinging and due to their impact, Vikash Kumar suffered an electric shock. He was rushed to the Civil Hospital, Rewari and a DDR No.16 dated 25.04.2018 was also recorded at Police Station Kanina, in relation to the untoward incident. Proceedings under Section 174 Cr.P.C. were conducted on 25.04.2018 and post mortem report was obtained bearing Report NO.RK/003/18/ RWR. He contends that a request was made by the petitioners for claiming damages but the same failed to yield any result and as such, an application under Section 22 - C of the Legal Services Authorities Act, 1987, was preferred by the petitioner before the Permanent Lok Adalat (Public Utility Services), Narnaul. The claim filed by the

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petitioner was dismissed by the the Permanent Lok Adalat (Public Utility Services), Narnaul vide order dated 21.08.2023. Aggrieved thereof, a writ petition bearing CWP No.23198 of 2023 was filed before this Court for redressal of the grievances which was disposed of by this Court vide order dated 12.10.2023 with liberty to the petitioner to move application before the respondent authorities for seeking disbursement of the compensation and a specific direction was issued to the respondents to decide the said claim within a period of 04 months. He contends that pursuant to the order dated 12.10.2023, the respondent authorities have passed the impugned order dated 03.05.2024 (Annexure P-8) whereby the claim preferred by the petitioners has been declined on the ground that there was no lapse/negligence on the part of the respondent Distribution Licensee and as such, they are not liable to pay any compensation. Reliance has been placed by the Chief Engineer, Operation, New Delhi on clause 16 of the amended policy of fatal and non-fatal accidents of human beings dated 15.01.2024 as per which the respondent Distribution Licensee is not responsible for paying any compensation in case the accident/death had occurred due to contributory negligence on the part of the deceased.

Notice of motion.

Mr. Pankaj Mulwani, DAG, Haryana, accepts notice or respondents No.1, 2 and 6 and Mr. Vivek Saini, Advocate, accepts notice for respondents No.3 to 5 and 8.

Learned counsel for the respondent Distribution Licensee has been confronted with the above said order passed by the competent

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authority whereby he has placed reliance on the policy dated 15.01.2024. The accident in question had occurred much prior in point of time. He, however, is not in a position to show whether the said aspect has been dealt with in the order or not and there is no explanation as to how the said amendment would be applicable to the facts and circumstances that had occurred prior in point of time.

In view of above, I feel that the order dated 03.05.2024 (Annexure P-8) passed by respondent No.8 i.e. Chief Engineer, Operations, Dakshin Haryana Bijli Vitran Nigam Limited is a non-speaking order and has been passed without taking into consideration the impact and intent of the policy for grant of compensation on account of fatal and non-fatal accidents.

Accordingly, the present writ petition is allowed. The impugned order dated 03.05.2024 (Annexure P-8) passed by respondent No.8 i.e. Chief Engineer, Operations, Dakshin Haryana Bijli Vitran Nigam Limited is set aside and the matter is remanded back to the competent authority to pass a fresh order after taking into consideration the observations noticed above and to return a finding on the basis thereof with respect to the applicability of the amendment, if any and to thereafter determine the admissibility of compensation in favour of the petitioners. The parties are directed to appear before the competent authority within a period of 02 months from today.

Needless to mention that in the event of filing of such claim/representation by the petitioner before the competent authority as per

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the policy, the same shall be decided expeditiously by the competent authority preferably within a period of 04 months from the date of filing of such claim/representation, after granting an opportunity of hearing to the respective parties.

July 25, 2024

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(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No