

2024:PHHC:130096



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

113

CWP-21583-2024 (O&M).
Date of Decision: 30.09.2024.

SHAVET PHOR MINOR THROUGH HIS FATHER MAHIPAL
SINGH

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Parveen Sharma, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana,
for respondent No.1.

Mr. Vivek Saini, Advocate,
for respondents No.2 to 6.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the office order dated
05.04.2024 (Annexure P-15) seeking enhancement of compensation of
Rs.1,40,000/- awarded to the petitioner on the ground that the same is
inadequate and that petitioner is entitled to a higher compensation of Rs.2

2024:PHHC:130096



crores along with interest @ 15% per annum for the permanent disability and injuries sustained by him due to electric shock.

2 Learned counsel for the petitioner contends that father of the minor petitioner is an agriculturist and has been earning his livelihood therefrom. A High Tension (HT) 11 KV Electric wire is passing through his fields. Officials of the Distribution Licensee/transmission licensee have been informed and requested to raise the height of said electric wires to avoid any mishap/major loss as it was low and hanging. A representation in this regard was also submitted on 11.07.2017, along with photographs of the low-lying electric wires, and informing them that the height of the same is much below what has been specified by the Appropriate Commission. He contends that needful had not been done despite request and apprehension expressed by the petitioner. The same eventually resulted in an unfortunate incident on 07.10.2017 when Mahipal (father) along with his 09 year old son (petitioner) and 11 year old daughter were going from his fields to the village in a tractor-trolley. The minor petitioner came in contact with the transmission line and fell down unconscious. He was taken to a private hospital at Karnal for treatment from where he was referred to the PGI, Chandigarh. Both the arms of the petitioner minor had to be amputated as a consequence of the injuries sustained by him during the electrocution incident. There were also certain other injuries sustained by him on his legs. An FIR No.0589 dated 13.10.2017 under Sections 279 and 337 of the Indian Penal Code, 1860, was also registered at Police Station Gharaunda, District Karnal. The disability suffered by the minor petitioner is assessed at

2024:PHHC:130096



100 percent and a disability certificate to corroborate the same is also appended.

3 It has been argued that the petitioner was a student of 4th class and was a brilliant student, however, as a result of the injuries suffered by him due, to negligence on the part of the respondents, he has suffered permanent disability for the rest of his life which can never be compensated. The petitioner approached this Court earlier by filing CWP No.662 of 2018 titled as 'Shavet Phor through his father Mahipal Singh Vs. State of Haryana and others' for seeking a direction to the respondents to pay compensation. Undisputedly, at the time when the incident in question took place, the Victim Compensation Policy dated 18.05.2017 was in force. The above said writ petition was disposed of by this Court vide order dated 15.09.2022 directing the respondents to take a decision on the claim of the petitioner for grant of compensation. In furtherance of the order dated 15.09.2022, the requisite documents were submitted by the petitioner to the authorities and that even thereafter various representations were submitted by the petitioner. Eventually an order dated 30.11.2023 was dispatched on 11.12.2023, was sent to the petitioner but no decision was taken. It is averred that in letter dated 30.11.2023 it was wrongly mentioned that the petitioner did not submit any representation or document, after passing of order dated 15.09.2022 by this Hon'ble Court. In order to conceal their own fault, the respondents dispatched the above letter to the petitioner on 08.12.2023 but with mala fide intention mentioned the date as 30.11.2023.

It is also argued that a representation along with all the requisite documents

2024:PHHC:130096



had been submitted by the petitioner on 26.09.2022, which is also substantiated from letter dated 12.12.2023, wherein the petitioner apprised the respondent that he has already submitted all the relevant documents i.e. Disability Certificate, Aadhaar Card, and affidavit etc. along with the representation, however, no compensation had yet been released. It is also argued that on 13.01.2024, the petitioner received another letter i.e. Memo No. 2861 dated 07.12.2023 from SDO, UHBVN, Gharaunda, wherein the petitioner was again asked to submit the documents. The petitioner even responded to the said letter vide reply dated 15.01.2024, wherein he again apprised the respondent that as directed by the respondent/department, he has already submitted requisite documents on earlier occasions. However, to avoid any further delay in release of the compensation, the petitioner again submitted Disability Certificate and copy of Aadhaar Card etc. with the said letter dated 15.01.2024. The petitioner was compelled to approach this Court again by filing COCP No.1232-2024 and it was thereafter that a decision was taken by the respondent on 05.04.2024 to award compensation of Rs.1,40,000/-. He further submits that the said compensation is highly inadequate as compared to the loss suffered by him wherein both the arms of the minor have been amputated.

4 Learned counsel for the petitioner makes a reference to the judgments passed by this Court in the matter of **Deepak Sharma and another Vs. State of Haryana and others, in CWP No.12894-2023 decided on 09.05.2024 and Anuj Vs. State of Haryana and others, passed in CWP**

2024:PHHC:130096



No.6527-2020 decided on 20.04.2023, to contend that the principles of the Motor Vehicles Act, 1988 are applicable for determining compensation and a liberty had also been granted to the petitioner(s) therein to approach the Civil Courts for seeking award of a just and fair compensation.

5 Notice of motion.

6 Mr. Pankaj Mulwani, DAG, Haryana, accepts notice on behalf of respondent No.1/State and Mr. Vivek Saini, Advocate, accepts notice on behalf of respondents No.2 to 6/UHBVNL. Learned counsel for respondents No.2 to 6 does not dispute the judgment passed by this Court as well as the award that has been passed by the competent authority. He contends that the assessment of the compensation has been carried out strictly in accordance with the compensation policy and that the petitioner has not been able to point out any defect in the computation of compensation as per policy. He is, however, not in a position to dispute that the said compensation is in the nature of a financial assistance and is not an assessment of the actual loss. The judgment passed by this Court on the subject is also not disputed.

7 Taking into consideration, the totality of the circumstances, as also the nature of the disability, along with the precedent judgment passed by this Court in Deepak Sharma and another (supra) and Anuj (supra), I deem it appropriate to dispose of the instant petition by awarding a further interim compensation of Rs.3,00,000/- to the petitioner and with a liberty to approach the Civil Courts for determination of compensation in view of the

2024:PHHC:130096



judgments passed by this Court in *Deepak Sharma and another (supra)* and *Anuj (supra)*.

8 Needless to mention that in the event of the petitioner approaching the Civil Courts for seeking enhancement of the compensation, the period spent by the petitioner in pursuing the writ petition earlier as well as before the authorities, pursuant to the orders passed by this Court, shall be taken into consideration while computing the period of limitation.

9 Further, in the event of the Civil Court computing compensation lower than have already been released as per order passed by the authorities and also the interim compensation granted by this Court, no recovery shall be affected from the petitioner from the amount already disbursed.

10 It is further ordered that in the event the amount awarded by the authorities as well as by this Court is not released within a period of 30 days of receipt of a certified copy of this order, the petitioner shall be entitled to interest @ 6% per annum on the entire amount from the date of the instant writ petition. The Department would, however, be at liberty to seek recovery of the liability of interest amount from the erring officials who caused delay in disbursement of the compensation.

September 30, 2024
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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