



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

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CWP-31391-2019 (O&M)

Date of decision: 24.07.2024

Master Vansh Rawat (Minor) through his father V.S. Rawat and another

...Petitioners

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Arun Kumar Bakshi, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG Haryana.

Dr. (Ms.) Neha Awasthi, Advocate for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for directing the respondents to pay the compensation to the petitioner for the negligence on the part of the respondent-Distribution Licensee as a result whereof the minor child suffered permanent disability to the extent of 70% due to electrocution.

2. Learned counsel appearing on behalf of the petitioner has argued that master Vansh aged 13 years was a student of class 8th at St. Columbus School, Faridabad and had a bright future ahead. However, on 31.08.2018 he suffered electrocution resulting in amputation of his right arm and 70% permanent disability in both his arms/hands. The said incident was caused on account of high tension electric wire running very



low and at a touching distance from the first floor houses in the residential colony of Block-D, Shiv Durga Vihar, Lakarpur, Faridabad, Haryana. He contends that the respondents failed to maintain the safety height prescribed against the electric line, which is their primary 'duty of care' towards citizens, and to ensure compliance of the mandate of the Electricity Act, 2003. He places reliance on the Disability Certificate dated 08.05.2019 to establish the permanent disability suffered by the petitioner. He also contends that the father of the minor Vansh Rawat is facing great difficulty in meting out the medical and other expenses of the petitioner since he was working in Courier Service in Faridabad and has restricted resources to deal with the huge expenses involved in extending the treatment. Various other hardships faced by the family are set out in the petition. Learned counsel for the petitioners contends that the compensation awarded by respondents is inadequate and that the petitioner is entitled to a higher compensation.

3. Learned counsel for respondents No.2 and 3 submits that the claim of the petitioners was considered by the respondents-Dakshin Haryana Bijli Vitran Nigam Limited as per its Fatal/Non-Fatal Policy dated 15.07.2019. Vide office order No. 54 dated 09.09.2020 a compensation to the tune of Rs.7,67,894/- was sanctioned in favour of the petitioners. It is averred that due amount however could not be timely disbursed as the bank account details of the father of minor Vansh Rawat were not available. It is however submitted that requisite information was sent by the petitioner and the money in question already stands transferred. She further contends that the petitioner has nowhere disputed that the compensation ascertained was



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not as per the Policy. He argues that admissible compensation has already been released and that if the petitioner feels that any higher compensation has to be released, he is required to lead evidence, establish loss and also establish the negligence for which a Writ Court would not be an appropriate remedy.

4. Learned counsel for respondents No.2 and 3 further contends that Clause 12 of the Police deals with the compensation to be provided to private person having age less than 16 years under the Fatal and Non-Fatal Accident and as per the procedure prescribed thereunder the compensation shall be payable as per the provisions of the Employees Compensation Act, 1923.

5. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record as well as the judgment cited by the learned counsel for the petitioner.

6. Learned counsel for the petitioners emphasized that the question of grant of compensation can always be examined by a Writ Court. He places reliance on the judgment passed by the Hon'ble Supreme Court in **Civil Appeal No.11466 of 2014 (Arising out of SLP(C)No.8113 of 2014)** titled as **Raman Vs. Uttar Haryana Bijli Vitran Nigam Ltd. and others,** decided on 17.12.2024, to substantiate his arguments.

7. In so far as the said judgment is concerned, the same had been passed at a time and in relation to an incident that had taken place when no compensation Policy was notified by the Distribution Licensee for injuries on account of electrocution. Besides, the position in law is not in dispute but



the issue is about sufficiency of compensation & determination thereof. So far as reference to the judgment passed by this Court in the matter of **Ishiq @ Yashika Vs. State of Haryana and others** reported as **2022 (3) RCR (Civil) 629**, is concerned, the said ratio of the judgment is not in dispute, however, the said judgment holds that a person is entitled to compensation in the event of the failure of the respondent-Distribution Licensee to maintain public safety.

8. It is not a case where the compensation has been denied to the petitioners and rather, in the present case compensation has been granted by the respondents as per their Policy, however, the petitioners are dissatisfied with the quantum of compensation ordered to be released. The criteria adopted by the respondents for computation of income is as provided under the Employees Compensation Act, 1923 with effect from the date of age of 16 years. It is not a case of the petitioner that the assessment, as done by the respondents under Clause 12 of the Policy of 2017, is incorrect and/or that the petitioners should be entitled to a higher compensation even if the said criteria is adopted. Hence, the due and payable compensation as per Policy stands released. The petitioner cites his personal circumstances and hardships to put up a claim for higher compensation.

9. The compensation granted under the Policy is in the nature of financial assistance on humanitarian ground and may not be perceived as assessment of the actual loss or damages sustained by an individual. A person, who has suffered an injury may claim compensation from the Distribution Licensee as per the applicable scheme, however, the same may



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not debar a person from claiming higher compensation.

10. The next question which however arises for consideration before this Court is as to whether such exercise ought to be undertaken by this Court or the petitioner ought to move an appropriate application before the Civil Court, as a question with respect to assessment of damage and the loss caused and thereafter, the computation and quantification thereof would arise. These questions would require adducing of evidence which cannot be gone into by this Court.

11. It is however also noticed by this Court that although compensation has been paid to the petitioner by the respondents towards the liability as assessed under Clause 12 of the above said Policy, however, the actual medical expenses for treatment incurred may have not been released.

12. The present writ petition is accordingly **disposed of** and the order under challenge is partly modified to the extent that respondents No.2 and 3 are directed to disburse an additional amount of Rs.2 lakhs as an interim compensation towards medical expenses that may have been incurred by the father of the master Vansh Rawat, over and above the claim already released. Let the additional amount be released in favour of the petitioner within a period of 3 months of the receipt of a certified copy of this order failing which petitioner shall be entitled to interest @ 6% per annum from the date of the order.

13. The petitioner shall also be at liberty to file an appropriate petition/claim before the Civil Court and to establish his actual entitlement of compensation for the loss sustained and to establish the negligence, if

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any, on the part of the respondents.

14. The period during which the present petition has remained pending before this Court or with the respondent-authorities shall be taken into consideration while computing the period of limitation.

15. Ordered accordingly.

24.07.2024

Mangal Singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(VINOD S. BHARDWAJ)

JUDGE