



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

125**CWP-27965-2024****Date of Decision: 18.10.2024**

Karan

..... Petitioner

VERSUS

Uttar Haryana Bijli Vitran Nigam Limited & anr.

.... Respondents

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

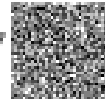
Present: Mr. Sunil K. Tandon, Advocate
for the petitioner (through VC).

Mr. Vivek Saini, Advocate,
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the instant petition is to the order dated 08.05.2024 (Annexure P-7) passed by the Executive Engineer, Sub Urban Division No.2, UHBVN, Rohtak, whereby claim of the petitioner for grant of compensation on account of death of his son has been rejected.

Learned counsel for the petitioner contends that son of the petitioner went to Village Rohat on 26.11.2020 to do some work on the transformer and to fix some issues under the supervision of Rahul Nanha, Vijay and Samsheer (Lineman) i.e. superior official of the respondent-distribution licensee. He was working with contractor namely M/s Jind Infotech, Jind, which had been engaged by the respondents for maintaining the high voltage electronic line of distribution network. Before start of the work on the transformer, it is claimed that an assurance was given by the respondent officials that electric supply has been switched off from the main power house and on such assurance son of the petitioner climbed on the pole to remove the fault in line but fell down on account of strong electric current.



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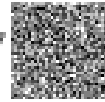
He was taken to PGIMS, Rohtak for his treatment, where he was declared dead. Copy of the death certificate dated 27.11.2020 is also attached as Annexure P-1. A DDR No.9 dated 27.11.2020 was also registered at Police Station Asauda Jhajjar. A representation was accordingly submitted by the petitioner for grant of compensation, but no action has been taken thereupon. Aggrieved thereof, he approached this Court by way of filing CWP-25866-2023, which was disposed of vide order dated 17.11.2023 directing the respondents to consider the claim of the petitioner by passing a reasoned and speaking order within a period of four months from the date of filing of claim.

Hence, no decision was taken within time as is specified, the petitioner filed an application under Article 215 of the Constitution of India before this Court and during the pendency of the said application, a speaking order dated 08.05.2024 was passed rejecting the claim. The operative part of the order reads thus:

“The brief facts of the case are as under:-

A Fatal Accident of Sh. Ramashish (PP) S/o Sh. Ram Karan resident of Bihar, was occurred on dated 26.11.2020 at industry No.1 feeder emanating from 33 KV S/Stn Rohad and the deceased was an employee of contractual firm M/s Jind Infotech Jind.

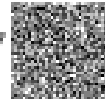
On 26.11.2020, Sh. Ram Ashish, the employee of the contractor was working on H-pole of industry M/s Nitesh Kumar (Site of accident). The internal G.O switch of the Industry was in open position and PTW was taken on the feeder and its trolley was properly racked out. The deceased climbed up the H- pole but he removed the hand gloves for handling some material and



accidentally touched the HT line and got electrocuted because of existence of back supply of M/S Playgrotoys India Pvt Limited, Sampla. It was also gathered that in coming side of HT line was properly earthed with chain and outgoing line was disconnected by switching off the Internal GO switch of the consumer as the work was being carried out at dead end of the line.

The deceased was an employee of contractual firm M/s Jind Infotech Jind and as per Compensation Policy of the UHBVN as notified vide No. 155/CGM/Admn./REG-13/L Dated 08.07.2019 and clause No. 23 of the Work Order No. 89 Dated 28.10.2020 issued from the office of SDO (OP) S/Divn. UHBVN, Sampla to the firm M/s Jind Infotech Jind, the Compensation if any to be paid to workman due to any accident/death during execution of work will be the entire responsibility of the contractor. Accordingly the concerned contractual firm was requested by the office of Xen (OP) Sub urban Division No. 2, UHBVN, Rohtak vide office memo no. Ch-44/AC-481 Dated 23.02.2021, to Intimate the amount of compensation if any paid to the family of deceased.

Further, reliance may be placed on CWP No. 6793 of 2015 Executive Engineer DHBVN V/s Presiding officer dated 13.05.2015, in which the Hon'ble High Court has held that there is no relationship of employer and employee between workman and Nigam but between workman and HESL. Also in CWP No. 11134 of 2015 titled as Satya Prakash V/s M/s Sehwat Construction Company vide order dated 08.08.2018, it has been held that there is no master servant relationship per-se, as petitioner has not been able to establish in any way that he was ever appointed by the Nigam.



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The concerned contractual firm vide its letter dated 27.11.2020 has Intimated that a sum of Rs. 3.50,000/- has been paid to the family of deceased vide Cheque No. 119556 Dated 27.11.2020 and the deceased family was fully satisfied. As the contractor is fully responsible to pay compensation etc. to its own worker hence, Nigam is not liable to pay the compensation.

Thus the representation of the petitioner is hereby denied accordingly.”

Learned counsel for the petitioner contends that the respondents have failed to take into consideration the terms and conditions of the notified policy including Clause 12 (A) thereof and have merely dismissed the claim on the ground that a sum of Rs.3,50,000/- have been paid to the family of the deceased.

Notice of motion.

Mr. Vivek Saini, Advocate, appears and accepts notice on behalf of the respondents. He contends that as per the above said clause, the primary responsibility was that of the contractor and the distribution licensee was liable to make the payment only on account of failure by the contractor to disburse the compensation. He contends that as the compensation had already been given by the contractor to the petitioner on account of the unfortunate incident, hence there is no further liability to pay any compensation by the distribution licensee.

Having heard learned counsel for the respective parties and taking into consideration the submissions advanced as also the impugned order, I am of the opinion that the respondents-authorities were required to take into consideration as to whether the compensation paid by the contractor

was in accordance with the policy or not and in the event, the compensation disbursed was not in consonance with the parameters fixed and criteria analyzed in the said policy, the respondent distribution licensee was required to direct the contractor to pay the admissible compensation. In the event such payment is not made, the primary liability remains that of the principal itself and the clause relied upon is an indemnification clause for the distribution licensee to hold itself harmless against such clause and to claim the same from the contractor.

In view of the above, I find that order dated 08.05.2024 (Annexure P-7) impugned herein does not take into consideration the terms and conditions of the policy and also does not take into account as to whether the disbursed compensation is in accordance with the parameters prescribed in the policy or not. Consequently, the impugned order dated 08.05.2024 passed by the Executive Engineer, Sub-Urban Division No.2, UHBVN Rohtak, is set aside and the case is remanded back to the respondents to pass a fresh order after taking into consideration the terms and conditions of the policy including the manner in which the compensation is to be computed and thereafter, pass an appropriate order for payment of just and adequate compensation. Let, needful be done within a period of four months from the date of receipt of certified copy of this order.

Petition stands disposed of accordingly.

18.10.2024

monika

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No