



\$-

*** IN THE HIGH COURT OF DELHI AT NEW DELHI
BEFORE**

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ W.P. (C) 7941/2017

Between: -

**MR. DEVASIA THOMAS,
S/O P D THOMAS,
71-A, POCKET-E,
GTB ENCLAVE,
DELHI-110093**

....PETITIONER NO.1

**MRS. REENA DEVASIA,
W/O DEVASIA THOMAS,
71-A, POCKET-E,
GTB ENCLAVE,
DELHI-110093**

.....PETITIONER NO.2

*(Through: Mr. Wills Mathews, Mr. Ginesh P, Ms. Nandita Batra, Mr.
Paul John, Edison and Mr. Dhanesh M. Nair, Advs.)*

AND

**GOVERNMENT OF NCT OF DELHI
THROUGH CHIEF SECRETARY
DELHI SECRETARIAT, I P ESTATE,
NEW DELHI-110002**

.....RESPONDENT NO.1

**BSES YAMUNA POWER LTD.
THROUGH ITS MANAGING DIRECTOR/CEO,
SHAKTI KIRAN BUILDING,
OPPOSITE KARKARDOOMA COURTS,
DELHI-110096**

.....RESPONDENT NO.2

Signature Not Verified
Digitally Signed
By:MAANAS JAJORIA
Signing Date:08.10.2024
17:07:00

Signature Not Verified
Digitally Signed
By:PURUSHAINDRA
KUMAR KAURAV

(Through: Mr. Rishikesh Kumar, ASC-GNCTD with Ms. Sheenu Priya, Mr. Atik Gill, Mr. Sudhir Kumar Shukla and Mr. Sudhir, Advs. for R-1.

Mr. Mohit Mathur, Sr. Adv. with Mr. Anupam Varma, Mr. Nikhil Sharma and Ms. Simran Kohli, Advs. for R-2)

%

Reserved on: 27.08.2024
Pronounced on: 07.10.2024

J U D G M E N T

The solitary relief sought by the petitioners in the instant writ petition pertains to a claim for compensation amounting to ₹5,02,21,600/-, on account of the unfortunate death of their 18-year-old son, namely Robin (*hereinafter referred as “deceased”*), who allegedly got electrocuted from a fallen overhead non-insulated live electric line.

2. The record would reveal that petitioner no.1 works as an Archives Clerk with Dar Al Handash Consultants Shair and Partner, Dubai. Petitioner no. 2 is employed as a Nursing Officer at Guru Tegh Bahadur (G.T.B.) Hospital, Shahadra, Delhi and has been rendering her service for the past more than 24 years. The family of the petitioners consisted of their deceased son and a daughter.

3. On the day of the unfortunate accident, i.e., 21.05.2017, at around 5:30 p.m., the deceased went out to play football in the nearby park, along with his neighbourhood friends. At around 6:00 p.m., petitioner No.2 received a call from one of the friends of her son, who informed that the deceased had met with an accident after getting an electric shock. The deceased was then rushed to the G.T.B. hospital, Shahadra, where, he was declared dead on arrival. Following this,

Signature Not Verified
Digitally Signed
By:MAANAS JAJORIA
Signing Date:08.10.2024
17:07:00

post-mortem of the deceased was conducted by the said hospital.

Signature Not Verified
Digitally Signed
By:PURUSHAINDRA
KUMAR RAURAV

4. On hearing the unfortunate news, petitioner no. 1, who was in Dubai at the relevant point of time, rushed back to Delhi. On the even date, an F.I.R. was registered under Section 304-A of the Indian Penal Code, 1860 at the Police Station, Seemapuri, Delhi. Thereafter, on 23.05.2017, the mortal remains of the deceased was taken to his hometown and his funeral took place at St. Thomas Church, Kottayam, Kerala

5. On 11.07.2017, being anguished by the death of their son on account of alleged negligence of the respondents, the petitioners sent a legal notice to them seeking a sum of ₹5,02,21,600/-, out of which Rs. 5 crores was being sought as compensation for the death of the deceased and ₹2,21,600/- towards the expenses incurred while carrying out the funeral and cremation, including flight charges, fare for carrying mortal remains to Kerala and other miscellaneous expenses. However, the petitioners did not receive any response from the respondents.

6. Aggrieved by the inaction of the respondents, the petitioners have preferred the instant writ petition.

7. Mr. Wills Mathews, learned counsel for the petitioners, submitted that the accident had occurred due to negligence on the part of the respondents in maintaining the electric line which resulted in falling of the overhead electric line and subsequently, electrocution of the deceased. It is stated that the electric wire which had broken down was very old and the residents of the locality had raised several complaints to respondent no.2-BSES, Yamuna Power Limited (hereinafter "BYPL") about the same, but all their requests had fallen on deaf ear. A copy of the representation given by the Residents Welfare Association dated 06.01.2016 has been placed on record,

poles No. GTR-190, GTR-195 and pole in front of Flat No.74. An eyewitness is stated to have informed the petitioners that, on the day of the fatal incident, there were sparks around the conductor and the electric line fell, thereafter. Further, it is averred that BYPL may still be using outdated electrical apparatus, because as per the new technology, when a live wire breaks down, the electric supply on the line should automatically shut down.

8. Learned counsel further asserted that the staff of BYPL did not even have the key to the control room at the time of incident and they had to break open the door to switch off the electric line. He further, contended that the respondents are duty bound to ensure proper upkeep of the mechanism for the supply of electricity and no amount of money can compensate the petitioners and their family members for the loss of their only son on account of dereliction of such duty. He further submitted that the deceased was an excellent student and was equally good in sports and extra-curricular activities, which indicates that he would have had a bright future. In order to support his averments, learned counsel has placed reliance on the decision of the Supreme Court in *Raman v. Uttar Haryana Bijli Vitran Nigam Limited & Ors* ¹, the decisions of this Court in *Baby Anjum th. her Natural Guardian & Anr. v. Chief Executive Officer, BSES Rajdhani Power Ltd* ², *Mahipal Singh Chauhan & Ors. v. State (NCT of Delhi) & Ors* ³ and *Rajeev Singhal & Anr v. MCD & Anr* ⁴.

9. Mr. Mohit Mathur, learned senior counsel appearing on behalf of BYPL, has vehemently denied any act of negligence on the part of BYPL or its officers. He contended that at the outset, the present

¹ (2014) 15 SCC 1

² 2012 SCC Online Del 2028

³ 2017 SCC Online Del 8135

⁴ 2018 SCC Online Del 11518

petition is not maintainable as it involves disputed questions of facts and the jurisdiction of the writ court has been incorrectly invoked under Article 226 of the Constitution of India for claiming damages for a purported tort or alleged negligence.

10. He further submitted that there is a factual dispute as to what was the contact point of the deceased with the wire. According to learned senior counsel, there are apparent contradictions in the facts as presented by the petitioners. He submits that as per the petitioners, the deceased had stepped on the live wire, however, the report from the Department of Forensic Sciences dated 22.05.2017, placed on record by petitioner No.1 himself, discloses the point of electric contact as the base of the deceased's left thumb. It is also submitted that the said report specifically records the details of the external injuries as *"Electric contact point 1.2x1.0 cm over palmar aspect of base of left thumb"*.

11. Learned senior counsel also averred that there is also a dispute as to which electrical phase wire had snapped. According to him, the National Human Rights Commission's communication dated 21.05.2018, placed on record by the petitioners, reveals that a street light Phase Conductor at Dilshad Garden, Delhi was found snapped, however, BYPL has stated in its reply that the bare conductors of overhead medium voltage comprising of 3 phase bare conductors (R, Y and B phases), 1 neutral conductor along with 1 street light conductor, split neutral earth had been running over the place of accident. The lowest phase conductor (B Phase) and split neutral earth guarding had snapped. He additionally submitted that the aforementioned communication has recorded that no earth guarding was found under the said overhead line, whereas, the correct facts as

overhead electrical line caused the snapping of the lowest bare phase conductor (B Phase) and splitting of the neutral earth guarding.

12. Further, it was contended by the learned senior counsel that although proper care and precaution were taken by BYPL, but the overhead electrical line was snapped because of circumstances beyond the control of BYPL and the same cannot be construed to be negligence on behalf of BYPL in maintaining the electrical lines. It was also submitted that the electricity to the wire did not stop *inter alia* in view of the fact that the circuit breaker installed by BYPL generally operates if the fault i.e., contact of bare snapped conductor with earth guarding, occurs in the span close to the feeding end of supply and in the present case, the place of incident is far away from the sub-station. In conclusion, it was submitted by the learned senior counsel that it is a settled legal position that when the respondent comes out with its version of an incident different from the one pleaded by the petitioner, the same amounts to a disputed question of fact which cannot be adjudicated in a writ petition.

13. He has placed reliance upon the decisions of the Supreme Court in *Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das*⁵, *S.P.S Rathore v. State of Haryana & Ors.*⁶, *SDO, Grid Corporation of Orissa Limited v. Timudu Oram*⁷, *T.N. Electricity Board v. Sumathi*⁸, *Abdul Haque & Ors. v. BYPL & Ors*⁹, *Dharampal v. DTC*¹⁰ to substantiate his arguments.

14. A status report dated 15.11.2019 was filed by respondent no.1- Government of National Capital Territory of Delhi (*hereinafter*

⁵ (1999) 7 SCC 298

⁶ (2005) 10 SCC 1

⁷ (2005) 6 SCC 156

⁸ (2000) 4 SCC 543

⁹ 2007 SCC OnLine Del 1001

¹⁰ 2008 SCC OnLine Del 35

referred as 'GNCTD') detailing the status of the case bearing FIR No.334/2017 by the SHO, Seempuri. The relevant paragraph of the same is reproduced herein for reference:-

"During investigation the PM of the dead body of deceased was conducted and his dead body handed over to his family. As per result of PM report the doctor cause of death was Antimortum Electrocution. During the investigation statement of eyewitness Manoj Kumar was recorded wherein he stated that he was present on his shop on 21.05.17 at about 06:00 pm one electric wire was broke down due to heavy rain and high wind. He complaint in BSES office by phone and requested to cut the power supply but no action was taken from BSES electric department. Meantime, deceased Robin came in contact with broken wire and died due to electrocution. During the investigation the notices was given to BSES officials u/s 91 Gr.P.G to join the investigation who replied that no negligence was found on behalf , of BSES. He further submitted that as maintenance regarding broke down and it repairs of fault was given to outsource to other company M/s BRYN Construction Company, 223-A, Hari Nagar, Ashram, New Delhi. The investigation of this case is going on."

15. GNCTD has also placed on record the Electrical Accident Committee's Report dated 29.05.2017. The said report indicates that the root cause of the said incident was that the deceased got electrocuted due to current leakage from the snapped conductor in the waterlogged area as a result high-velocity thunderstorms and rains. While highlighting the aforesaid reasons, it was stated that the nearby branches of trees would have started touching the phase 4 wire overhead LV line, causing the bare phase conductors to touch each other repeatedly and thus, producing sparks due to the phase-to-phase short-circuiting which resulted in damage to some of the conductor strands and snapping of B phase conductor. The Electrical Inspector opined that the incident had occurred due to natural circumstances out of human control.

16. I have considered the rival submissions made by learned counsel for the parties and have perused the record.

17. Given the above submissions made by learned counsel for the parties, the principal issue which requires to be adjudicated is whether, under the facts of the present case, the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India can be invoked by the parents of the deceased for seeking compensation on account of death due to electrocution?

18. Recently, in *Shagufta Ali v. Govt. of NCT Delhi & Ors.*¹¹, this Court, while adjudicating an almost similar case of compensation for death due to electric shock, surveyed various decisions, besides the decisions of the Supreme Court in *Nilabati Behara v. State of Orissa*¹², *D.K. Basu v. State of W.B.*¹³ and *MCD v. Uphaar Tragedy Victims Assn*¹⁴ and held that “public law remedy can be resorted to and monetary compensation can also be awarded in cases of violation of Article 21 of the Constitution of India”.

19. *Vide* another decision in the case of *Munna & Anr v. MCD & Anr*¹⁵, this Court, while lending credence to the dictum in *Shagufta Ali*, opined that undoubtedly, in cases where Article 21 of the Constitution of India stands violated, individuals can resort to writ proceedings to redress their plight by bringing into motion the wheels of public law, and consequently, monetary compensation may also be granted in appropriate cases.

20. Therefore, it is unequivocally held that the writ jurisdiction can be invoked by the aggrieved, in cases of violation of the right to life by the State, as such a remedy is fundamental to public law, and upholds the principles of justice and accountability.

¹¹ 2024 SCC OnLine Del 6250

¹² (1993) 2 SCC 746

¹³ 1997) 1 SCC 416

¹⁴ (2011) 14 SCC 481

¹⁵ W.P.(C) 4202/2008

21. The ancillary issue, which stands posited before the Court is the applicability of the maxim *res ipsa loquitur* i.e., absolute liability and the requisite standard of proof for granting compensation under a public law remedy, in the factual matrix of the case at hand.

22. In *Shagufta Ali*, the Court, while referring to the enunciation of law in *Sukamani Das* and *Rajeev Singhal*, laid down the essential conditions for the applicability of the legal maxim *res ipsa loquitur*, while exercising its discretionary powers under Article 226 of the Constitution of India to grant compensation. It was categorically held that when State instrumentalities are directly and solely responsible for an incident, and the cause and the fact of death are undisputed, the maxim *res ipsa loquitur* would be applicable. This principle allows for the presumption of negligence of the official respondents, though strictly based on the facts of each case.

23. The Supreme Court in the case of *Sukamani Das*, which is relied upon by BYPL, has considered whether the High Court was correct in awarding compensation in a case of death on account of electrocution. It was held that where disputed questions of fact are involved, a petition under Article 226 of the Constitution of India is not an appropriate remedy. In cases where an action in tort and negligence is connoted, the same has to be primarily established by the claimants. The mere fact that the wire of the electric transmission line belonging to the electricity company had snapped and the deceased had come in contact with the same, which resulted in his death, was not by itself sufficient for awarding the compensation. The standard of proof would require whether the wire had snapped as a result of any negligence on the part of the electricity company as also the circumstances under which the deceased had come in contact with

opportunity to prove that despite proper care and precautions taken in maintaining the transmission lines, the wire had snapped because of circumstances beyond its control or due to unauthorized intervention of third parties or that the deceased had not died in the manner stated by the claimant. In that case, the very factum of death, being electrocution, was in dispute in the case before the High Court, and then, before the Supreme Court. The relevant paragraph, highlighting the stand of the appellant, therein, is reproduced as under:

“In their counter-affidavit the appellants stated that because of the thunderbolt and lightning one of the conductors of the 12 W LT line had snapped even though proper guarding was provided. As soon as the information regarding the snapping of line was received from the line-helper residing at Village Amara the power was disconnected. The officers of the appellant had thereafter rushed to that spot and had noticed that one shackle insulator had broken due to lightning and the conductor had also snapped from that shackle insulator along with the guarding and the sub-station fuse had also blown out. It was further stated in their counter-affidavit that on enquiry the officers had learnt that Pratap Chandra Das had died due to lightning and not because he had come in contact with the snapped live wire. It was stated by way of defence that the 12 W LT line had snapped because of an act of God and not because of any negligence on the part of the appellant and its officers. Thus, the appellants had denied the fact that Pratap Chandra Das had died as a result of coming in contact with the live electric wire and also raised a defence that even if Pratap Chandra Das had died as a result of coming into contact with the live electric wire it was a pure case of accident arising out of an act of God and his death was not because of any negligence on the part of the appellant and its officers in maintaining the transmission line. It was also contended before the High Court on behalf of the appellants that the writ petition was not a proper remedy as the facts stated by the writ petitioner were disputed by them and the dispute between the parties could not be decided without evidence being led by both the sides.”

(emphasis supplied)

24. The relief of compensation was also denied by this Court in the cases of **Abdul Haque** and **Dharampal**, holding therein that in cases involving a claim for compensation on account of death due to

electrocution, where, the facts are disputed, a writ petition for payment of compensation is not maintainable as held by the Supreme Court in *Sukamani Das*. The Court also held that the remedy in such cases would only lie before the Civil Court, where evidence could be led and appreciated in accordance with the principles of the law of evidence.

25. The Court also deems it appropriate to take note of the cases relied upon by the petitioners, wherein, this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, has awarded compensation to the family of the deceased.

26. The Supreme Court in *Raman* was addressing a tragic incident of a four-year-old boy, namely Raman, who suffered severe injuries by electrocution after coming into contact with a naked electric wire on the roof of his house. Following the incident, the boy underwent multiple treatments and was declared permanently disabled. A writ petition seeking compensation for disability due to electrocution was filed in the High Court by the petitioner through his father and the learned Single Judge awarded ₹60 lakhs, which included ₹30,00,000/- for future needs and a monthly care allowance of ₹20,000/-. However, the Division Bench of the Court later reduced the monthly amount to ₹10,000/-. The Supreme Court restored the original compensation, emphasizing that the reduction was arbitrary and failed to consider the deceased's lifelong care requirements. The Court reaffirmed strict liability principles, asserting that compensation must adequately reflect both the victim's suffering and future needs.

27. The Division Bench of this Court in the case of *Rajeev Singhal* considered a claim for compensation on account of death due to electrocution where a 14-year-old boy got in contact with an electric

decisions including the decision in the case of **Sukamani Das** and held that once it is established that the incident resulted in the death of the child and the same happened as a consequence of negligence, the Writ Court would be well within its jurisdiction to award necessary compensation irrespective of the dispute, if any, between the respondents therein.

28. In **Baby Anjum**, the plea was for compensation of ₹10,00,000/- for the amputation suffered by petitioner no.1 therein, a 4-year-old girl, after coming in contact with a transformer installed close to her home which was allegedly caused by the negligence of BSES Rajdhani Power Ltd. This Court noted that the respondent did not contest the facts presented by the petitioners. After taking note of the decision of the Supreme Court in **Sukamani Das, H.S.EB v. Ram Nath**¹⁶ and the decision of this Court in **Shri Chand v. Chief Secretary, State of NCT, Delhi**¹⁷, the Court held that the negligence of BSES was evident and awarded ₹7,50,000/- as compensation.

29. In **Mahipal Singh Chauhan**, this Court was adjudicating another claim of compensation for death due to electrocution. The Court perused the report by the Electrical Inspector, Govt. of NCT, of Delhi after conducting an inquiry under Section 161 of the Electricity Act, 2003 and as per the said report, it was stated that the electrical installation on the high mast light pole was not properly maintained, the insulation of the electric supply cable was found worn-out/cracked, thereby, exposing the conductor and the naked/exposed wires were found hanging in an accessible position near the base of the pole. The Court accepted the observation to hold the official respondents negligent and awarded compensation of ₹17,04,500/-.

30. In all these cases, the Court opined that the facts and the material produced on record were sufficient to signify that official respondents were negligent in maintaining the electrical apparatus which resulted in either death or disability, and therefore, granted compensation, as duly calculated, in each case.

31. An upshot of the judicial precedents discussed hereinabove would evince that the High Court, while exercising jurisdiction under Article 226 of the Constitution of India, should ordinarily refrain from awarding compensation, a remedy primarily available within the civil law domain, when the case involves disputed questions of fact. However, if the State's liability for a tortious act, committed by itself or its servants, is undisputed or is *prime facie* evident from the record, the maxim *res ipsa loquitur* may be applied to overcome any factual impediments. The rationale behind the presumption of liability in such cases is based on the ground that it is practically not feasible for the aggrieved persons to gather concrete evidence of negligence and therefore, the doctrine of *res ipsa loquitur* comes to the rescue and helps in overcoming the formal evidentiary burden of the petitioner. However, the same is subject to the proof of foundational facts and manifest negligence directly attributable to the State instrumentalities. This view has been lucidly explained by this Court in *Shagufta Ali*.

32. A perusal of the facts would show that on the day of the unfortunate incident, a call was made to the concerned police station and it was informed that a person is lying in an unconscious state due to electric shock at Pocket-A, Dilshad Garden. The post-mortem report has opined the cause of death as ante-mortem electrocution. Therefore, it is an undisputed fact that the deceased died due to electrocution, which is also recorded in the FIR.

33. The status report dated 15.11.2019 placed on record by the SHO, Seemapuri, reveals that during the investigation, a statement made by the eyewitness Manoj Kumar was recorded, wherein, he stated that he was at his shop on the day of the incident at about 06:00 p.m., when one electric wire broke down due to heavy rain and high winds. He, thereafter, stated to have made a complaint in the BSES office *via* phone and requested to cut the power supply, but no action was taken. It was around the same time that the deceased got electrocuted.

34. Further, the Electrical Inspector report states that at 6:25 p.m. i.e., after the deceased had suffered electrocution, a complaint was received by the concerned complaint center of the official respondents, and the lineman, after observing that an overhead LT conductor was snapped on the ground in a waterlogged area near a gate, took necessary steps to repair the broken wire and supply was restored by 8:20 p.m. The fact as to whether the complaint was received by BYPL prior to the said incident or after the same had occurred, remains ambiguous and disputed by the parties. The same requires a further corroboration to conclusively establish the actual facts and circumstances which led to the said incident and as a sequitur, to determine the liability.

35. The status report also reveals that during the investigation, notice was given to the BYPL officials under Section 91 of the Code of Criminal Procedure, 1973 to join the investigation. As a reply to the same, the BYPL stated that no negligence was found on its behalf and the work of maintenance of broken wires and repairs of fault was outsourced to another company i.e., M/s BRYN Construction Company. Further, the stand taken by BYPL is that the said incident

which is much higher in the case where the length of the conductor up to the snapped point from the feeding end circuit breaker is appreciably large. According to BYPL, in the instant case, the place of accident is far away from the sub-station and the electricity to the wire did not stop *inter alia* in view of the fact that the circuit breaker installed by it generally operates if the fault (contact of bare snapped conductor with earth guarding) occurs in the span near to Air Circuit Breaker. Undeniably, adjudication of the aforesaid facts necessitates a specific expertise and technical know-how, which normally falls outside the purview of adjudication by the writ court, as the same would require adducing relevant documents and leading evidence before a competent Civil Court.

36. The Electrical Inspector report also concludes that the responsibility of the said incident cannot be attributed to any particular authority but to natural circumstances due to high velocity thunderstorms and rains which led to the snapping of the overhead conductor which caused a current leakage in the surrounding waterlogged area. It further explains that the responsibility of maintenance, though primarily vested with BYPL, any act or omission leading to the unfortunate incident cannot be solely and directly attributed to the distribution company (DISCOM), unless the same is conclusively proved.

37. Therefore, facts and contentions made by the parties indicate that the negligence that led to the leakage of electricity current from the snapped conductor in the waterlogged area, *prima facie*, at this stage, cannot conclusively and solely be attributed to BYPL. The relevant facts in the instant case, do not conclusively establish that it was only the DISCOM i.e., BYPL herein, whose negligence

unambiguous facts and any conclusive evidence on record which definitively demonstrates a lapse on the part of BYPL, the Court cannot conclusively establish negligence on the part of BYPL and therefore, the principle of *res ipsa loquitur* becomes inapplicable. The said contentions, however, can only be established by the parties while leading evidence in a competent civil court.

38. Subsequently, what prevents this Court from exercising the discretionary writ jurisdiction under Article 226 of the Constitution of India, in the instant case, are *inter alia* the following disputed facts which require further adjudication before the competent Court:-

1. Whether the current leakage due to the snapped conductor can be attributed to any negligence or lapses by the BYPL or was it a result of a *vis major*?
2. Whether BYPL received a complaint regarding the snapped conductor/wire prior to the accident, or was it received afterward? Additionally, if the complaint was received prior, did its officers exercise proper care in their response to ensure safety?

39. This Court does not find it appropriate to adjudicate upon the aforementioned issues, as the present case does not satisfy the requirement of application of the maxim *res ipsa loquitur* as laid down in ***Shagufta Ali***, as also there is no conclusive evidence on record to suggest otherwise. The said maxim applies in cases where the facts clearly and unequivocally indicate that responsibility for the incident can directly be attributed to statutory authorities, rather than to any act beyond human control and knowledge or natural occurrences.

40. However, this Court deems it appropriate to consider the decision in the case of ***Satish Kumar v. BSES Yamuna***

*Limited and Anr*¹⁸, wherein, the Court without prejudice to the position of respondents therein, directed the them to pay an *ex-gratia* amount of ₹2,00,000/- to the petitioner. This sympathetic view was reiterated by the Court in *Shagufta Ali and Geeta Devi v. The Govt. of NCT of Delhi & Ors*¹⁹, wherein the Court awarded an *ex-gratia* lump sum to the aggrieved parents of the deceased therein.

41. Therefore, in view of the circumstances of the present case, the Court deems it appropriate to issue directions regarding *ex-gratia* compensation which shall be payable to the petitioners to ameliorate their suffering for the time being, following the tragic loss of a son.

42. This Court deems it appropriate to grant an *ex-gratia* lump sum amount of ₹10,00,000/-, to be paid by BYPL to the petitioners. This payment shall be made to the petitioners within three months from the date of passing of this judgment. Any failure to comply with the same will result in the petitioners being entitled to simple interest at the rate of 6% per annum, accruing from the date of this judgment. The petitioners are also at liberty to pursue appropriate legal remedies in the civil court. If the petitioners do so, let the competent civil court to adjudicate the matter within one year from the date of institution of any such suit. It is further clarified that the *ex-gratia* amount awarded by this Court is independent of, and in addition to, any compensation that may be awarded by the civil court.

43. Needless to state, this Court has confined its observations only in light of the scope of exercising the discretionary powers under Article 226 of the Constitution of India, while entertaining writ petitions seeking compensation for death or disability, resulting from

State's negligence. Nothing stated herein, shall be construed as an expression on the merits of the present case.

44. With the aforesaid directions, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

OCTOBER 07, 2024

p'ma