

**CWP-20321-2023****1**

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

**CWP-20321-2023****Reserved on : July 08, 2025****Pronounced on : September 29, 2025****ABC AND ANOTHER****-PETITIONERS****V/S****STATE OF UNION TERRITORY CHANDIGARH AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Ramandeep Pratap Singh, Advocate and  
Mr. Sahil Koul, Advocate  
for the petitioners.

Mr. Aman Bahri, Addl. Standing Counsel with  
Ms. Aashna Gill, Jr. Panel Counsel  
Mr. Shivansh Sood, Advocate and  
Mr. Sachin Sharma, Advocate  
for the respondent(s)-U.T. Chandigarh.

Mr. Gautam Dutt, Advocate and  
Ms. Prachi Gupta, Advocate  
for the respondent No.4.

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**KULDEEP TIWARI, J.**

1. Since the petitioner No. 1 is a minor, the Registry of this Court is hereby directed to mask her identity on the official website of this Court.

2. At the onset of the monsoon season, on 08.07.2022, the students of Carmel Convent School, Sector 9-D, Chandigarh, having commenced their day as early as 5:30 a.m., attended their classes which commenced at 7:30 a.m. During the lunch recess, at approximately 11:30

**CWP-20321-2023****2**

a.m., the students were taking their meals under a large Peepal tree (*Ficus religiosa*). They were constrained to do so due to the absence of a designated dining hall or any safe facility provided by the school for the consumption of meals. The students might have looked for a shed to take shelter from the scorching sun, but none was there. While the students were dining, a large branch of the tree suddenly broke and fell upon them. This unfortunate incident resulted in the untimely death of a girl student, whose father is petitioner No. 2 before this Court, and caused grievous crush injuries to another girl student, petitioner No. 1 herein, culminating in the amputation of her left arm. Several other students, as well as some staff members, sustained injuries of varying degrees and severity. In the aftermath of this tragic occurrence, the Chandigarh Administration awoke from its slumber and constituted a One-Member Inquiry Committee headed by Justice (Retd.) Jitendra Chauhan, vide order dated 13.07.2022.

3. The Committee, after conducting a comprehensive inquiry in collaboration with various experts, including specialists from the Forest Research Institute, Dehradun, submitted its inquiry report on 30.12.2022. The Committee concluded that the incident occurred due to the negligence of the respondent No. 2- Engineering Department, Chandigarh Administration (hereinafter referred to as 'Engineering Department'). Further, the Committee recommended that the family of the deceased student be awarded compensation of ₹ 1 crore, and the petitioner No. 1 be compensated with ₹ 50 lakhs on account of the amputation of her arm, with both amounts to be paid by the Engineering Department.



Additionally, the Committee directed that the Chandigarh Administration shall bear all expenses incurred by the family for transplants or other medical treatment related to the petitioner No. 1, whether conducted within India or abroad, as and when such procedures are undertaken. Likewise, a direction was issued to the Engineering Department to also cover the entire treatment expenses of Ms. Sheela, an employee who made serious efforts in saving the precious lives of the students. Not only this, considering her dedicated efforts, the Committee recommended that she be offered regular employment commensurate with her qualifications. Apart from the above, the Committee made several recommendations aimed at preventing the recurrence of such a tragic incident in the future.

4. Although the Chandigarh Administration/Engineering Department accepted most of the recommendations made by the Committee, it failed to comply with the recommendation regarding payment of compensation. This omission caused grievance and propelled the petitioner No.1, who is a minor aged about 16 years, and the petitioner No.2, who is father of the deceased minor girl student, to knock the doors of this Court by filing the instant writ petition.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE**  
**PETITIONERS**

5. In seeking the relief of issuance of directions to the respondent(s) concerned for disbursal of the compensation recommended by the Committee, learned counsel for the petitioners submitted that the Committee, in its inquiry report dated 30.12.2022, has unequivocally



attributed the cause of the tragic incident to the negligence of the Engineering Department. It is further submitted that once such negligence stands established and all other recommendations, except that pertaining to compensation, have been accepted by the Chandigarh Administration, there exists no justifiable ground for withholding compliance regarding compensation. It is pointed out that while an *ex-gratia* amount of ₹ 20 lakhs has been paid to the petitioner No.2 and ₹ 10 lakhs to the petitioner No.1, the compensation specifically recommended by the Committee for the negligent act of the Engineering Department remains unpaid.

6. Continuing his submissions, learned counsel for the petitioners contended that when the right to life under Article 21 of the Constitution of India is violated as a result of negligence attributable to public authorities, Constitutional Courts are empowered to award compensation in exercise of their jurisdiction under public law. The Hon'ble Supreme Court as well as various High Courts, in catena of judgments, have clearly held that in cases involving infringement of fundamental rights by the State or its instrumentalities, particularly where such breach results in death or permanent disability, the courts are not precluded from granting monetary compensation as a public law remedy.

7. To lend vigour to his submissions, learned counsel also placed reliance upon the judgment of the Hon'ble Supreme Court in ***“State of Himachal Pradesh & Ors. vs. Naval Kumar @ Rohit Kumar”, Civil Appeal No. 1339 of 2017***, wherein compensation to the tune of ₹ 90 lakhs was awarded to the victim(s). He also cited the decision of this

**CWP-20321-2023****5**

Court in *“Ishiq @ Yashika vs. State of Haryana & Ors.”*, CWP No. 20325 of 2018, wherein ₹ 95 lakhs was awarded as compensation for death/injuries attributable to the negligence of a State instrumentality.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE**  
**RESPONDENT(S)-U.T. CHANDIGARH**

8. *Per contra*, learned counsel representing the U.T. Chandigarh opposed the submissions advanced on behalf of the petitioners and questioned the very maintainability of the instant writ petition. He contended that a writ of mandamus is issued only to enforce a legal duty, which must be shown to exist in favour of the petitioners and against the respondents. Unless such duty is traceable to a statutory provision or established legal right, no direction in the nature of mandamus can be issued.

9. While drawing the attention of this Court to the terms of reference, it is submitted that the Committee has, in fact, exceeded its mandate by recommending the payment of compensation, which is neither binding upon the respondent(s) nor enforceable through the present writ petition. Such a recommendation does not create a binding legal duty and, at best, can only be considered recommendatory in nature.

10. Learned counsel further submitted that compensation admissible under the applicable guidelines, particularly those governing the disbursement of funds under the State Disaster Response Fund, has already been paid to the petitioners and other affected individuals. A total sum of ₹ 84 lakhs has already been disbursed to the injured persons and to

**CWP-20321-2023****6**

the family of the deceased. It is submitted that the compensation recommended by the Committee is not based on any statutory provision and, therefore, is not binding on the Chandigarh Administration. The Committee ought to have applied the guiding principles laid down under the Motor Vehicles Act while assessing compensation. Nonetheless, the Chandigarh Administration, by adopting such principles, has disbursed amounts exceeding the entitlement of the petitioners under the applicable legal framework.

11. With respect to medical assistance, it is submitted that the petitioner No.1 was referred to the Government Multi Specialty Hospital, Sector 16, Chandigarh, where an amount of ₹5,00,000/- was approved as one-time financial aid for provision of an artificial limb. However, the parents of the petitioner No.1 subsequently informed the Committee concerned that they want to opt for a hand transplant procedure when the petitioner No.1 attains the age of majority. In view of such communication, the approved assistance was deferred at the request of the petitioner No.1's family.

12. Addressing the arguments on the issue of negligence, learned counsel drew the attention of this Court to the order dated 21.12.2017 issued by the Secretary (Forests and Wildlife), Chandigarh Administration, whereby 31 trees in the city were notified as “Heritage Trees of Chandigarh”. The responsibility for their protection, preservation, and conservation, in coordination with the Department of Forests and Wildlife, U.T. Chandigarh, was placed upon the institutions

**CWP-20321-2023****7**

or departments within whose premises such trees were located. It is submitted that, in the present case, the tree in question was situated within the school premises and, as such, the responsibility for its upkeep rested with the school authorities. It is also submitted that certain parents of students recorded statements before the Committee to the effect that, had there been a designated area such as a shed or canteen for lunch, the incident could have been avoided. On this basis, it is contended that the primary duty to protect, preserve, and conserve the tree in question lay with the school, being its custodian, and that the failure to discharge this duty renders the school responsible for the unfortunate occurrence. Accordingly, it is submitted that the Engineering Department cannot be held liable in this regard.

13. To further support the contention that no negligence could be attributed to the Engineering Department, reliance is placed on the judgment of the Hon'ble Supreme Court in "*Rajkot Municipal Corporation v. Manjulben Jayantilal Nakum & Ors.*", (1997) 9 SCC 552, wherein it was held that in cases where the victim was unaware of any disease/decay in the tree and the tree suddenly fell during still weather conditions, it is difficult to foresee that a tree would fall suddenly, and in such circumstances, the Corporation or the authority is not liable to be sued for tort of negligence since the causation is too remote.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE**  
**RESPONDENT NO.4- SCHOOL**

14. Although learned counsel for the respondent No.4 has not

**CWP-20321-2023****8**

addressed the matter on merits, he has, however, apprised this Court that an amount of ₹ 5,75,000/- has been given to the petitioner No.1 by obtaining financial help from M/s. Sysmed Exim Pvt. Ltd. for a prosthetic arm, and the complete medical expenses of the petitioner No.1 amounting to ₹ 57,487/- have also been paid on 25.11.2022. Moreover, the school fee of the petitioner No.1 for three academic sessions has also been waived.

**ANALYSIS OF THE ISSUES INHERING THE INSTANT WRIT**

**PETITION**

**(I) MAINTAINABILITY OF THE INSTANT WRIT PETITION**

15. The preliminary objection raised by learned counsel for the U.T. Chandigarh is regarding the maintainability of the instant writ petition, on the ground that, the petitioners do not have any vested clear right to invoke the writ jurisdiction of this Court specifically seeking complete implementation of the recommendations made by the Committee.

16. In order to deal with this argument, it is important to note that a claim in public law for compensation is an acknowledged remedy for enforcement and protection of such rights, which are guaranteed in the Constitution of India. The award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution is a recognized principle. The Court cannot sit helpless to grant relief in a case of violation of right to life. This principle has been duly recognized by the Hon'ble Supreme Court in case titled "*Smt. Nilabeti Behera @ Lalita Behera Vs. State of Orissa and Ors.*", 1994(1) RCR (Criminal) 18,



CWP-20321-2023

9

wherein became laid down the principle justifying the award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution. The Supreme Court also placed reliance upon case titled **“Kharti and Ors. Vs. State of Bihar and Ors.”**, [1981] 1 S.C.C. 627, wherein it was held that the Court should be prepared to forge new tools and devise new remedies for the purpose of vindicating the precious fundamental rights. Moreover, the Supreme Court went on to hold that the old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much as protector and guarantor of the inalienable rights of the citizens. The relevant paragraphs of the verdict rendered in **Smt. Nilabeti Behera’s** case are extracted hereunder:-

*“16. It follows that 'a claim in public law for compensation' for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is 'distinct from, and in addition to, the remedy in private law for damages for the tort' resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Articles 32 and 226 of the*



*Constitution. This is what was indicated in Rudul Sah and is the basis of the subsequent decisions in which compensation was awarded under Articles 32 and 226 of the Constitution, for contravention of fundamental rights.*

*18. This view finds support from the decisions of this Court in the Bhagalpur blinding cases: **Kharti and Others v. State of Bihar and Others**, [1981] 1 S.C.C. 627 and **Kharti and Other (TV) v. State of Bihar and Others**, [1981] 2 S.C.C. 493, wherein it was said that the court is not helpless to grant relief in a case of violation of the right to life and personal liberty, and it should be prepared to forge new tools and devise new remedies' for the purpose of vindicating these precious fundamental rights. It was also indicated that the procedure suitable in the facts of the case must be adopted for conducting the inquiry, needed to ascertain the necessary facts, for granting the relief, as the available mode of redress, for enforcement of the guaranteed fundamental rights. More recently in **Union Carbide Corporation and Others v. Union of India and Others**, [1991] 4 S.C.C. 584, Misra, C.J. stated that 'we have to develop our own law and if we find that it is necessary to construct a new principle of liability to deal with an unusual situation which has arisen and which is likely to arise in future..... there is no reason why we should hesitate to evolve such principle of liability ..... To the same effect are the observations of Venkatachaliah, J. (as he then was), who rendered the leading judgment in the Bhopal gas case, with regard to the court's power to grant relief.*

*32. The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much as protector and guarantor of the indefeasible Rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and expected to respond to their aspirations."*

17. Furthermore, in the case titled "**Union Carbide Corporation Etc. Vs. Union of India Etc.**", 1992 AIR Supreme Court 248, the



Hon'ble Supreme Court held that courts have to develop their own law, and if it is found necessary, construct a new principle of liability to deal with an unusual situation. The apposite observations are extracted hereinafter:-

*"....We have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialised economy. We cannot allow our judicial thinking to be constricted by reference to the law as it prevails in England or for the matter of that in any other foreign country. We no longer need the crutches of a foreign legal order. We are certainly prepared to receive light from whatever source it comes but we have to build our own jurisprudence and we cannot countenance an argument that merely because the law in England does not recognise the rule of strict and absolute liability in cases of hazardous or inherently dangerous activities or the rule laid down in Rylands v. Fletcher as developed in England recognises certain limitations and exceptions, we in India must hold back our hands and not venture to evolve a new principle of liability since English courts have not done so. We have to develop our own law and if we find that it is necessary to construct a new principle of liability to deal with an unusual situation which has arisen and which is likely to arise in future on account of hazardous or inherently dangerous industries which are concomitant to an industrial economy, there is no reason why we should hesitate to evolve such principle of liability merely because it has not been so done in England....."*

18. While following the above laid down principles of the Supreme Court, a Co-ordinate Bench of this Court, in case titled "**Raman Vs. State of Haryana and Ors.**", **CWP-14046-2012, Decided on: 02.07.2013**, held that court can grant compensation by moulding the relief in writ jurisdiction by way of penalizing the wrongdoer and fixing the



liability for the public wrong on the respondents who failed to perform their public duties. The apposite guiding principles, as embodied in the verdict rendered by the Co-ordinate Bench, read as under:-

*“On a reading of the above case law the real question in this case which arises to my mind is whether the supplier of electricity can excuse himself by showing that the escape was owing to the petitioner's default. There is, however, little doubt on the other issues arising out of strict liability; burden of proof of escape of potentially dangerous thing causing injury wittingly or by surprise; standard of care required from Licensee which is circumspect statutorily under the Act and rules to do certain acts and things in the manner specified; jurisdiction of this court to award compensation in appropriate cases in writ jurisdiction and the connected issue of quantification of compensation so that it is neither under- compensation nor overcompensation etc.; that in the present case such factors tilt in favour of the injured and need not detain us. The claim made in the petition is an actionable claim and the case is an eminently fit one for grant of compensation in exercise of powers under Article 226 of the Constitution.”*

19. In the present case, the negligent act of one of the wings of the Chandigarh Administration has resulted in the loss of a precious young life, besides resulting in injuries of varying degrees and severity to several others. Therefore, it is well within the right of the injured victim(s) to enforce their legal right protected by the Constitution of India, and since there has been breach of their fundamental rights, they can well maintain a petition for award of monetary compensation.

20. At this juncture, it would be apposite to quote the legal maxim **“Ubi Jus Ibi Remedium”**, which means where there is a right,



there is a remedy. This principle signifies that if a citizen's legal right is breached, the law must provide remedy. A legal wrong cannot exist without there being a legal remedy. This principle clearly enumerates that no wrong should go without redress, and only by this way, the courts can establish faith in the rule of law.

21. Consequently, the petitioners are well within their right to seek redressal of their legal wrong by invoking the inherent writ jurisdiction of this Court. **Accordingly, the preliminary objection regarding maintainability of the instant writ petition is hereby rejected.**

#### **(II) MANDATE OF THE COMMITTEE**

22. Now, the second issue for determination, arising from the submissions of learned counsel for the contesting parties, is ***“whether the Committee exceeded its mandate in recommending compensation payable to the petitioners.”***

23. Learned counsel for the U.T. Chandigarh argued that the terms of reference under which the Committee was constituted were limited solely to ascertaining the facts of the case and fixing responsibility. The inquiry report submitted by the Committee exceeds its mandate. Moreover, the inquiry report contains only recommendations which do not create any legally binding obligation upon the Chandigarh Administration. In the absence of binding effect, the petitioners cannot maintain the present writ petition seeking issuance of a writ of mandamus for enforcement of a right that does not exist.



24. To pen down the answer to this issue, it is deemed imperative to allude to the terms of reference, which are extracted hereunder:-

*“A tragic incident occurred causing injury to the students and staff on 08.07.2022 in Carmel Convent School, Sector 9, Chandigarh whereby a tree fell on students who were taking lunch under the tree. Therefore, one member inquiry committee headed by Justice (Retd.) Jitendra Chauhan is constituted to ascertain the fact of the case and fix responsibility including remedial actions to be taken.” (emphasis supplied)*

25. The terms of reference clearly indicate that the Committee was constituted not only to ascertain the facts and fix responsibility, but also to recommend remedial actions to be taken. Such remedial actions are not confined merely to measures aimed at preventing recurrence of a similar incident, but also encompass actions relating to providing adequate medical assistance to the injured and awarding appropriate compensation to the injured or the families of the deceased for the losses suffered. **Consequently, this Court can safely hold that the Committee has not exceeded its mandate in recommending compensation payable to the petitioners, and that such recommendations fall well within the scope of the terms of reference.**

### **(III) NEGLIGENCE**

26. The third issue for determination is *“whether the negligence causing the tragic incident is attributable to the Chandigarh Administration, specifically the Engineering Department”*.

27. Learned counsel for the petitioners, relying on the inquiry report dated 30.12.2022, submitted that the Committee conducted a



thorough investigation in collaboration with various experts and found the Engineering Department negligent in the discharge of its duties, which ultimately resulted in the tragic incident.

28. Conversely, learned counsel for the U.T. Chandigarh contended that the Committee specifically noted that certain parents of students asserted that the incident could have been averted had the school provided a designated dining hall or other safe facility for meal consumption. Emphasizing the order dated 21.12.2017 issued by the Chandigarh Administration, whereby 31 trees in the city were declared as 'Heritage Trees of Chandigarh,' and the responsibility for their protection, preservation, and conservation was assigned to the institutions or departments within whose premises such trees stood, in coordination with the Department of Forests and Wildlife, U.T. Chandigarh, it is submitted that the primary duty to protect, preserve, and conserve the tree in question rested with the school authorities as its custodian. The relevant extract of the order dated 21.12.2017 is as follows:

*“The departments/institutions on whose premises these Heritage Trees are standing shall be responsible for its protection, preservation and conservation in coordination with Department of Forests & Wildlife, U.T. Chandigarh.”*

29. On the anvil of the order dated 21.12.2017, learned counsel for the U.T. Chandigarh argued that the school authorities were obligated to take all necessary precautions, including preventing students from having lunch beneath a Heritage Tree and ensuring that the tree within their premises was properly protected, preserved, and conserved in



coordination with the Department of Forests & Wildlife, U.T. Chandigarh.

30. This Court is of the view that the submissions made by learned counsel for the U.T. Chandigarh are completely oblivious to the fact that the Committee dealt with the issue of negligence in extenso and, based on that, held the Engineering Department negligent and responsible for the tragic incident. The Chandigarh Administration never disputed the finding of negligence attributed to the Engineering Department in the inquiry report furnished by the Committee. What is further significant is that the Chandigarh Administration, except for complying with the recommendation regarding payment of compensation, has complied with most of the other recommendations and has also taken necessary action to implement the remedial measures, which is clearly manifest from various intra departmental correspondences, viz., the Conservator of Forests, Chandigarh Administration, vide letter dated 11.04.2023, requested the Forest Research Institute, Dehradun, to carry out an audit of the trees standing in U.T. Chandigarh to evaluate the hollowness of the modem trees using modem technologies in order to prevent mishaps similar to the one at hand in the future. On the same day, i.e., 11.04.2023, the Conservator of Forests, Chandigarh Administration, wrote another letter to the Director, Environment Department, U.T. Chandigarh, requesting the latter to provide adequate training to school authorities for maintaining the health of the trees on their premises and for conducting regular and periodic checks. Similarly, all suggestions made by the



Committee were transmitted to various departments for effective implementation thereof. The relevant portion of the letter dated 11.04.2023 addressed to the Director, Environment Department, U.T. Chandigarh, is extracted hereunder:-

*“As you are aware that a tragic incident occurred in the Carmel Convent School, Sector-9, Chandigarh, whereby a tree fell on students who were taking lunch under the tree. Therefore, a one member inquiry committed headed by Justice (Retd.) Jitendra Chauhan was constituted. As per the report remedial measures/suggestions have been suggested by the one member inquiry committee, of which one reproduced below for necessary action at your end.*

*“That the school authorities be trained to keep the tree in good health and should keep a constant and period check of the tree in their premises and if something odd or negative is found, it shall be reported immediately on the single window portal to be developed by the Administration.”*

*In view of above, it is requested to send a letter to all Eco Clubs Incharges and Principals for arranging such awareness programme to aware the teachers and students for keeping the trees in good health and their periodic check and also involve the Range Forest Officer, Chandigarh Range, in these awareness programmes.”*

31. At this juncture, it is deemed necessary to refer to the inquiry report submitted by the Committee. Upon careful examination of the inquiry report, it is evident that the Committee recorded the statements of the injured and eyewitnesses, and, **to determine the cause of the tree’s fall, engaged a team of experts from the Forest Research Institute, Dehradun. Based on the expert analysis, the Committee recorded a**



**finding of negligence against the Engineering Department.** The relevant excerpt from the inquiry report is set forth below:-

*“However, circular dated 17.01.2018 is silent with regard to regular visits either by the Forests Department or by any other representative of the Department to assess and monitor the health of these trees. In the details circulated by the Department, which were discussed and debated with the officials during the subsistence of the Committee, a lot has been said about the various measures to be taken by the Chandigarh Administration to conserve the heritage trees including constitution of Heritage Tree Committee and visits from Forest Research Institute Dehradun every two years for study of Heritage Tree and to submit a report to the Chief Conservator of Forests/Head of the Forest Department, Chandigarh Administration. But unfortunately this exercise has been carried out post the tragedy to conceal the deficiency and defects in the 'Advisory'.*

*As per the literature available, the age of a peepal tree is normally about 900-1200 years. As per the declaration, the tree in question was approximately 250 years old, therefore, it can be safely said that the tree in question was not in its ripe age. That being so, it emerges that despite being in its youth, being diseased it could not sustain its weight and fell. The custodian of the tree being a layman and not an expert in the concerned discipline, it is not expected from him that he could fathom the consequences of retaining such a mature tree in the school premises. I have scanned all the policies circulated by the Administration. These contain no reference that the custodian is under any obligation to send an intermittent report with regard to the health of the tree. The duties cast upon the custodian are protection, preservation and conservation of the tree in coordination with the Department of Forests & Wildlife, UT Chandigarh. But, how this exercise of preservation and protection by the custodian is to be carried out does not find mention in any of the circulars. In my considered opinion, it is for the department to educate and guide such a*



*custodian as to how the whole process of conservation is to be carried out and thus there should have been clear guidelines in this regard.*

*From the statements of the students and staff, it prominently emerges that the tree was healthy in appearance, while in fact, it was hollow inside. Another aspect that has come in the testimonies of the Ld. The Principal, Sister Supreeta, students Ms. Vanya Singh, Ms. Riya Arora, Ms. Reena (Bus Attendant) and Mr. Premen (Mali) that a neem tree, approximately 15-20 feet in height, had grown in the trunk of the peepal tree. In the statement of the learned Principal and Ms. Vanya Singh, it has also come that another branch of the peepal tree hanging outside the school had fallen off about two years ago. As reflected in statement of Ms. Vanya Singh, student of Carmel Convent School, Sector 9, it has also come on record that the Environment Club of the school periodically used to paste some pesticides provided by the school authorities over the trunk of the tree to avoid any decay. This fact establishes that the school authorities had been taking due care of the tree in question. From the above testimonies, it is also established that a neem tree had grown in the trunk of the peepal tree.*

*There is no record that any officer of the Engineering Department ever visited the school premises to assess the health of the tree or to enlighten the school authorities and the students with regard to preservation of the tree. The advisory issued by the Chandigarh Administration is also silent about any such visit. The preservation of a very precious trees where the footfall is very high is the job of an expert or a trained person as a layman would not understand how the health of the tree is to be assessed.*

*The deliberation and report prepared by the Team of Experts from the FRI, Dehradun (quoted above) clearly makes out that the tree in question collapsed as it had been eaten up by fungus. The concerned team has also conveyed that that the inherent behavior of the fungal disease is that it travels from*



*inside to outer surface as against the termite which travels from outside to the inside. This peculiar spread of the fungal disease, coupled with the negligence of the Engineering Department, Chandigarh Administration, explains the fall of the huge peepal tree, which, being diseased and hollow with a Neem tree in its cavity, was unable to hold its huge weight. The peculiarity of the disease was beyond the comprehension of the custodian and any layman.*

*In light of the above facts, a very clear picture emerges that the school authorities cannot be held guilty of any negligence or cannot be termed as facilitator for the occurrence. The liability has to be fastened on the experts in the discipline concerned. Once the age of the tree in question had been found to be over 250 years, which as per the literature and the report of the experts cannot be said to be ripe, it essentially became the victim of the disease which knowledge and on account of negligence of the Engineering Department, Chandigarh as the officials did not visit the spot and did not device the specific protocol to keep such trees in good health to accord specialized treatment, if any, available to strengthen the tree, which had not even reached half of its life. This exercise, on the part of the Engineering Department, Chandigarh Administration in coordination with the Forests and Wildlife Department, Chandigarh Administration was essential in nature considering the fact that the tree was in the school compound with huge number of children and the school administration, not being expert, could not have known anything about the impending danger in sitting beneath the tree. It has been brought to the notice of this Committee that earlier also the adjacent Mango tree had fallen in the school. The school promptly informed the concerned authorities. The said tree was removed from the premises. This act of the falling of the adjacent tree was an alarming signal by Mother Nature, which was ignored by the Engineering Department, Chandigarh Administration. The custodian, a layman, could not have gauged*



*the health of the tree going by the surface appearance of the tree. These trees are not just our lives, and need the same kind of love care and meticulous attention that we accord to our family members throughout life.*

*It is also painful to note that whatever has been stated in the advisory even with regard to the trees falling under the direct control of the Government Department remains on the paper alone as none of the listed protective measures were ever carried out on the spot. Even the report submitted by the authorities does not contain details as to when such visits were made to assess the health of trees. Moreover, there is nothing on record with regard to use of any scientific method during the examination of these trees. The Administration is still not alert as it emerges from the inaction on the complaints dated 12.07.2022, 29.08.2022, 12.09.2022 and 15.09.2022 lodged by Principal of the St. Stephan's School. Despite the instruction circulated vide order dated 22.07.2022 by the Administration for felling permission of dangerously standing trees, the entire process shall be completed expeditiously within 48 hrs., no cognizance of the same has been taken on such complaints even after a lapse of six months. Nothing more is required to reflect on the issue.*

*In these circumstances, it emerges that the absence of regular visits by the experts in the discipline to the school premises and not imparting the necessary training is the primary cause for the collapse of the tree. The Notification/Instructions issued by the Chandigarh Administration from time to time whereby duty has been cast upon the custodian of the tree in the private property for its protection, preservation and conservation in coordination with Forests and Wildlife Department, Chandigarh Administration, however in the absence of not-providing any know-how are of no consequence. The Orders/Instructions are absolutely silent with regard to the obligation of the custodian in maintaining the Heritage Tree. If the concerned department, i.e. the Engineering Department had*



*remained vigilant, such a tragedy would not have taken place.”*

32. Although this Court need not to re-examine the issue of negligence specifically when it has already been examined by the Committee, which after conducting a comprehensive inquiry, attributed the negligence causing the tragic incident to the Engineering Department, yet for abundant caution, this Court has also independently examined this issue. According to the report of the Forest Research Institute, Dehradun, the fallen tree had decay inside its main trunk, a condition known as “heart rot,” which is decay in the central core of the tree trunk. In this condition, the tree appears lush and green without any visible symptoms of disease. Since the central core of the tree trunk provides mechanical strength, its decay causes the trunk to lose strength, making it susceptible to falling during strong winds, storms, or **under the sheer weight of its canopy.**

33. The Chandigarh Administration, by order dated 21.12.2017, notified 31 trees within the city of Chandigarh as “Heritage Trees”, and prohibited the Engineering Department, U.T. Chandigarh, and the Municipal Corporation, U.T. Chandigarh, from cutting or pruning these Heritage Trees without prior approval from the U.T. Chandigarh Administration. Subsequently, by order dated 17.01.2018, the Chandigarh Administration issued a specific advisory to the respective custodians of these Heritage Trees, imposing upon them the duty to ensure that no person cuts or removes any branches of the trees. While this obligation aimed to promote a healthy environment for the growth of these Heritage



Trees, no scientific measures were undertaken either to determine their age or to employ modern technology to assess their structural integrity, particularly given their location in public spaces such as schools, hospitals, and markets. The Chandigarh Administration was therefore under a duty to ensure that routine and periodic inspections, including scientific health assessments, were conducted to prevent any risk of damage to life or property resulting from the fall of these trees. The Committee duly considered these factors and, accordingly, held the Engineering Department negligent in failing to ensure the proper maintenance and upkeep of the tree in question.

34. At this juncture, this Court deems it imperative to deal with another submission of learned counsel for the U.T. Chandigarh, which relates to the tragic incident being an act of God. It is submitted that no prudent man can anticipate or foresee that branch of a healthy tree would suddenly fall in still weather conditions, and hence the Engineering Department cannot be held negligent for maintenance of the heritage tree in question, and cannot be penalized by awarding compensation in favour of the petitioners. It is further submitted that causation of the accident was too remote, therefore, no human law right exists in favour of the petitioners to file suit for tort of negligence. To support this submission, reliance is placed upon the verdict rendered by the Hon'ble Supreme Court in *Rajkot Municipal Corporation's case (supra)*, wherein it was held that if the causation is too remote, the authority is not liable to be sued for tort of negligence. The relevant paragraphs are extracted



hereunder:-

*“3. The admitted facts are that the deceased Jayantilal was residing in Padadhri. He used to daily come on a railway season ticket to Rajkot to attend to his office work. On March 25, 1975, while he was walking on footpath on way to his office, a road-side tree suddenly fell on him as a result of which he sustained injuries on his head and other parts of body and later died in the hospital. The respondents filed the suit for damages in a sum of Rs.1 lakh from the appellant-Corporation. The trial Court decreed the suit for a sum of Rs.45,000/- finding that the appellant had failed in its statutory duty to check the healthy condition of trees and to protect the deceased from the tree falling on him resulting in his death. On appeal, the Division Bench has held that the appellant has statutory duty to plant trees on the road-sides as also the corresponding duty to maintain trees in proper condition. While the tree was in still condition, it had suddenly fallen on the deceased Jayantilal who was passing on the footpath. The statutory duty gives rise to tortious liability on the State and as its agent, the appellant-Corporation being a statutory authority was guilty of negligence on its part in not taking care to protect the life of the deceased. The respondents cannot be called upon to prove that the tree had fallen due to appellant's negligence. Statutory obligation to maintain trees being absolute, and since the tree had fallen due to its decay, the appellant has failed to prove that the occurrence had taken place without negligence on its part. The appellant failed to make periodical inspection whether the trees were in good and healthy condition subjecting them to seasonal and periodical treatment and examination. Therefore, the appellant had not taken care to foresee the risk of the tree's falling and causing damage to the passers-by. Thus the appellant is liable to pay damages for the death of Jayantilal. The Division Bench accordingly confirmed the decree of the trial Court. Thus this appeal by special leave.*

*60. The exercise of power/omission must have been such that duty*



*of care had arisen to avoid danger. Foreseeability of the danger or injury alone is not sufficient to conclude that duty of care exists. The fact that one could foresee that a failure of the authority to exercise a reasonable care would cause loss to the passers-by itself does not mean that such a duty of care should be imposed on the statutory authority. The statutory authority exercises its public law duty or function. It would be wrong to think that the local authority always owes responsibility and continues to have the same state of affairs. It would be an intolerable burden of duty of care on the authority; otherwise it would detract the authority from performing its normal duties. If he were to gauge the risk of litigation, he would avoid doing public duty of planting and nurturing the trees thinking that it would be a heavy burden on the local authority. It would always cause heavy financial burden on the statutory authority. If the duty of maintaining constant vigil or verifying or testing the healthy condition of trees at public places with so many other functions to be performed, is cast on it, the effect would be that the authority would omit to perform statutory duty. Duty of care, therefore, must be carefully examined and the foreseeability of damage or danger to the person or property must be co-related to the public duty of care to infer that the omission/non-feasance gives rise to actionable claim for damages against the defendant.*

*62. The question, therefore, is: whether the respondents in the present case have established the three essential ingredients? Statute enjoins a power to plant trees on the roadsides or in public places. There is no statutory sanction for negligence in that behalf. But the question is: whether the statutory function to plant trees gives rise to duty of maintaining the trees? In a developing society it is but obligatory on every householder, when he constructs house and equally for a public authority to plant trees and properly nurture them up in a healthy condition so as to protect and maintain the eco-friendly environment. But the question is: whether the public authority owes a statutory duty*



*toward that class of person who frequent and pass and repass on the public highway or road or the public places? If the local authority/statutory body has neglected to perform the duty of maintaining trees in a healthy condition and when damage, due to fall of the tree occurs, the question emerges whether the neighbor relationship and proximity of the causation and negligence and the duty of care towards the plaintiff have been satisfactorily proved to have existed so as to fasten the defendant with the liability due to tort of negligence. It depends on a variety of facts and circumstances. It is difficult to lay down any set standards for proof thereof. Take for instance, where a hanging branch of a tree/tree is gradually falling on the ground. The statutory/local authority fails to take timely action to have it cut and removed and one of the passers-by dies when the branch/tree falls on him. Though the injured or the deceased has contributed to the negligence for the injury or death, the local authority etc. is equally liable for its negligence/omission in the performance of the duty because the proximity is anticipated. Suppose a boy not suspecting the danger climbs or reaches the falling tree and gets hurt, the defendant would be liable for tort of negligent. The defect is apparent. Negligence is obvious, proximity and neighborhood anticipated and lack of duty of care stands established. The plaintiff, in common law action, is entitled to sue for tort of negligence. The authority will be liable to pay the damages for omission or negligence in the performance of the duty. Take another instance, where while 'A' is passing on the road, there is sudden lightning and thunder and 'A' takes shelter under a tree and the lightning falls on the tree and consequently 'A' dies. In this illustration, there is no corresponding obligation or a duty of care on the part of the Corporation or the statutory authority to warn that 'A' should not take shelter under the tree to avoid harm to him. Take yet another instance, where road is being laid and there is no warning or signal and a cyclist or a motor cyclist during night falls in the ditch, i.e. place of repair due*



*to negligence on the part of the defendant. The injury is caused to the victim/vehicle. The plaintiff is entitled to lay suit for tort of negligence. But in a situation like the present one where the victim being not aware of the deacease/decay, the tree suddenly falls in a still weather condition, no one can anticipate and its is difficult to foresee that a tree would fall suddenly and thereby a person who would be passing by on the road-side, would suffer injury or would die in consequence. The Corporation or the authority is not liable to be sued for tort of negligence since the causation is too remote. Novus actus inconveniences snaps the link and, therefore, it is difficult to establish lack of care resulting in damage and foreseeability of the damage. The case in hand falls in this category. Jayantilal was admittedly passing on the roadside to attend to his office duty. The tree suddenly fell and he sustained injury and consequently died. It was difficult to foresee that a tree would fall on him.*

*63. The conditions in India have not developed to such an extent that a Corporation can keep constant vigil by testing the healthy condition of the trees in the public places, road-side, highway frequented by passers-by. There is no duty to maintain regular supervision thereof, though the local authority/other authority/owner of a property is under a duty to plant and maintain the tree. The causation for accident is too remote. Consequently, there would be no Common Law right to file suit for tort of negligence. It would not be just and proper to fasten duty of care and liability for omission thereof. It would be difficult for the local authority etc. to foresee such an occurrence. Under these circumstances, it would be difficult to conclude that the appellant has been negligent in the maintenance of the tees planted by it on the road-sides.”*

35. This Court has examined the ratio of law laid down in ***Rajkot Municipal Corporation’s case (supra)***, and with due respect holds that, the same is not applicable to the facts and circumstances of the present



case. It has clearly come on record and established that the Chandigarh Administration did not adopt any scientific methods to ascertain the health of the heritage tree in question, which was suffering from disease called “heart rot”. Had such scientific assessment been made at the relevant time, the present tragic incident could have been avoided. **Furthermore, the restriction imposed upon the caretaker(s) of the heritage tree(s) to prune the extra branches aggravated the cause.**

36. In “*A. Krishna Patra Vs. Orissa State Electricity Board and Ors.*”, *AIR 1997 ORISSA 109*, the plea of an inevitable accident or an act of God was considered, and the following principle was laid down:-

“8. The question relating to the liability of the Orissa State Electricity Board in case of death by electrocution due to snapping of transmission line or the like reason, came up for consideration before this Court in two recent cases, namely, *Smt. Rajani Devi v. Chairman, Orissa State Electricity Board*, (1996) 81 Cut LT 353, and *Uttam Sahu v. Chairman, Orissa State Electricity Board*, (1996) 2 OLR 99. In both these cases, the cause of death was electrocution due to coming in contact with a snapped line which remained charged. While dealing with the question in *Rajani Devi's case* (supra), after referring to Rule 91 of the Indian Electricity Rules which relates to safety and protective devices and paragraphs 35 and 36 contained in Volume 37 of the Halsbury's Laws of England, 4th Edition, it has been held that the law is clear that the O.S.E.B. must take special precautions in the operations connected with the transmission of energy through over-head lines. It was further indicated therein that in such cases, the burden will be heavy on the Board to establish that they could have prevented the escape of electric current as such things do not happen, if those who have the management use proper care. In the case at hand, it is the plea of



*the O.S.E.B. that neither they were negligent nor was the snapping of the live conductor due to lack of supervision, However, this is belied by the report of the Electrical Inspector which indicates that one of the phased Conductors snapped as it had outlived its utility and had become mechanically weak. This clearly indicates the lack of care, caution and proper supervision on the part of the opposite parties. Nay, it indicates a clear case of object indifference, for it was the bounden duty of the opposite parties to see that a mechanically unsound and weak conductor is replaced, looking to the very serious consequences which are likely to follow, which indeed have happened in this case. Permitting transmission of electrical energy through conductors which have outlived their utility and have become mechanically weak and unsound would itself be an indication of negligence. If such a conductor snaps and the line does not become electrically harmless and thereby results in the death of a person, this would by itself be a ground for imputing negligence to the O.S.E.B. In such a case, the burden would, we feel, be on the O.S.E.B. to explain and not on the claimant to establish negligence of the O.S.E.B. The petitioner need show nothing more.*

*9. The plea of an inevitable accident or an act of God advanced at the stage of hearing, cannot come to the aid of the opposite parties. While considering the question of inevitable accident or an act of God, it will be useful to reproduce a passage from the Law of Torts, 22nd Edition, by Justice G. P. Singh, which reads thus:*

*“All causes of inevitable accidents may be divided into two classes: (1) those which are occasioned by the elementary forces of nature unconnected with the agency of man or other cause; and (2) those which have their origin either in the whole or in part in the agency of man, whether in acts of commission or omission, non-feasance or mis-feasance, or in any other causes independent of the agency of natural forces. The terms 'act of God' is applicable to the*



*former class.”*

*An inevitable accident is an event which happens not only without the concurrence of the will of the man, but in spite of all efforts on his part to prevent it. It means, an accident physically unavoidable something which cannot be prevented by human skill or foresight. We have already referred to the report of the Electrical Inspector which indicates that the conductors snapped as it had outlived its utility and had become mechanically weak and unsound. Had the Board exercised proper care and supervision, it could have taken proper and prompt steps to replace the mechanically unsound and weak conductor in time, but that was not done. Thus, it cannot be said that the O.S.E.B. could not have prevented the incident by exercise of ordinary care, caution and proper supervision. Thus, it is not a case where the accident took place in spite of all efforts on the part of the O.S.E.B. to prevent it. In other words, it can be said that the accident was solely due to lack of care and caution on the part of the O.S.E.B. and its functionaries. Thus, it follows that the plea of an inevitable accident is wholly misconceived and cannot come to the aid of the opposite parties for getting out of its liability.*

*10. An 'act of God' is an inevitable or unavoidable accident without the intervention of the man; some casualty which the human foresight could not discern and from the consequence of which no human protection could be provided. This is not a case where the incident was due to unexpected operation of natural forces free from human intervention which no reasonable human foresight could be presumed to anticipate its occurrence or to prevent it. On the contrary, the material on record clearly indicates that but for indifference and inaction -- negligence of the O.S.E.B. in not replacing the mechanically unsound and weak conductor which had outlived its utility, the incident may not have occurred.”*

37. In light of the principle outlined above, it is clear that the Chandigarh Administration cannot evade its responsibility by claiming



that the present incident was the result of an act of God. Accordingly, the submission of learned counsel for the U.T. Chandigarh that the incident constituted an act of God is hereby rejected.

38. Consequently, the **third issue is answered in the affirmative and the negligence, as attributed to the Engineering Department by the Committee, is affirmed.**

#### **(IV) COMPENSATION**

39. The *fourth issue warranting determination is that of compensation*. It is argued by learned counsel for the petitioners that, in view of the recommendations made by the Committee, the petitioner No.1 is entitled to compensation of ₹ 50 lakhs, while the petitioner No.2 is entitled to compensation of ₹ 1 crore. There cannot be any possible reason for the Chandigarh Administration to deny this compensation. In order to counter the petitioners' claim for compensation, learned counsel for the U.T. Chandigarh argued that adequate compensation under the State Disaster Response Fund has already been disbursed to the petitioner. Even applying the guided principles laid down in the Motor Vehicles Act, the petitioners are not entitled to more than what has already been paid to them.

40. This Court is of the opinion that the above submission of learned counsel for the U.T. Chandigarh needs to be rejected outrightly. The cause for drawing this inference stems from the fact that this Court is not dealing with a motor accident case, and it can evolve the principles considering the facts and circumstances of the case, so as to ensure that a

**CWP-20321-2023****32**

wrong should not go without adequate redress. The quantification of compensation in cases like the one at hand cannot be subject to any straitjacket formula, as prescribed under the Motor Vehicles Act. This conclusion garners strength from the verdict drawn by the Co-ordinate Bench of this Court in ***Raman's case (supra)***, relevant portion whereof reads as under:-

*“The legal issues done, the only remaining concern of the Court is as to what extent relief is to be granted in this case. What guiding principles are to be followed in a case of a minor whose future itself is left dark and dreary filled with uncertainty? The principles of loss of income, loss to the estate, chances of employability in the future etc. remain intangible in the case of a minor child.*

*In cases of motor accidents, the issue of compensation has largely been evolved by case law, before and after introduction of the 2nd Schedule appended to the Motor Vehicles Act, 1988, and under the repealed 1937 Act and compensation granted according to the multiplier specified in the Schedule on a case to case basis. Some of the important cases of the Supreme Court on the subject are General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors, (1994) 2 SCC 176, Sarla Dixit (Smt.) and Anr. v. Balwant Yadav and Ors, (1996) 3 SCC 179, U.P. State Road Transport Corporation and Ors. V. Trilok Chandra and Ors. (1996) 4 SCC 362, Kaushnuma Begum (Smt.) and Ors. V. New India Assurance Co. Ltd. and Ors. (2001) 2 SCC 9, United India Insurance Co. Ltd. & Ors. v. Patricia Jean Mahajan & Ors, (2002) 6 SCC 281, Jyoti Kaul & Ors. v. State of M.P. & Anr, (2002) 6 SCC 306, Abati Bezbaruah v. Dy. Director General, Geological Survey of India & Anr, (2003) 3 SCC 148, New India Assurance Co. Ltd. v. Shanti Pathak (Smt.) & Ors, (2007) 1) SCC 1.*

*The Supreme Court has recently considered the issue of*



*compensation in motor accident cases in a comprehensive judgment rendered in C.A. No.4646 of 2009 (Reshma Kumari and others vs. Madan Mohan and another) on 2.4.2003 by a three Judges Bench. R.M.Lodha, J, speaking for the Bench has summarized the law on the subject in paragraph 40 of the judgment which reads as under:-*

*"40. In what we have discussed above, we sum up our conclusions as follows:*

*(i) In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in Sarla Verma {Note: Sarla Verma v. DTC, (2009) 6 SCC 121} read with para 42 of that judgment.*

*(ii) In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Sarla Verma should be followed.*

*(iii) As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.*

*(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma for determination of compensation in cases of death.*

*(v) While making addition to income for future prospects, the Tribunals shall follow paragraph 24 of the Judgment in Sarla Verma.*

*(vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall*



*ordinarily follow the standards prescribed in paragraphs 30, 31 and 32 of the judgment in Sarla Verma subject to the observations made by us in para 38 above.*

*(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration.*

*Since the present is not a motor accident case, the quantification of compensation in the special and peculiar facts of this case cannot be subjected to any straight jacket formula. The formulas based on multiplicands/multiplier system would not guide the Court in this case. But the broad and underlying principles of compensation evolved by Courts in motor accidents would remain guidance for the Court. In cases of electrocution, the Court may grant compensation depending on the facts and circumstances of each case. However, the different Heads under which compensation can be granted have been largely determined by judicial precedents in cases involving award of compensation in mishaps caused either on account of death or injury in a motor accident or in a case of electrocution caused by contact with live electrical wires and overhead transmission lines.*

*I agree with Mr. Malhotra that this is an eminently fit case for award of special compensation and damages as a freak and an unparalleled case in the magnitude of injury caused by electrocution. Though I do not agree to his quantification of compensation under different heads which is rather conservative and does not satisfy the conscience of the Court or the extent of injury, I am inclined to think that principles of strict liability go to Article 21 of the Constitution of India and invade the battle ground in fighting for the protection of life and liberty of our people. There is an element of criminal negligence as well on the part of the Nigam when viewed from the standpoint of Section 68 of the Indian Electricity Act, 2003 read with Rules 29, 44, 45, 46 and 91 of the Electricity Rules 1956 which I dare say require periodic or constant vigil by the agents and servants of the*



*Nigam.....”*

41. In *Ishika @ Yashika’s case (supra)*, a Co-ordinate Bench of this Court, while following the ratio of law laid down in *Naval Kumar @ Rohit Kumar’s case (supra)*, and considering the peculiar facts and circumstances of the case that the petitioner therein suffered amputation of both arms, granted compensation to the tune of Rs 95 lakhs to the petitioner therein. The ratio of law encapsulated in the verdict penned down in *Ishika @ Yashika’s case* is as under:-

*“7. Now with regard to the question of quantum of compensation, a Coordinate Bench of this Court in the judgment rendered in Raman’s case (supra) where a four years old boy lost his limbs and while substantively dealing with the issue, awarded a compensation of Rs.60 lakhs along with interest @ 8.5% per annum, apart from Rs.2 lakhs to the mother for trauma, mental shock, pain and agony as well as Rs.20,000/- quantified towards litigation costs. Similarly, a Division Bench of Himachal Pradesh High Court in the judgment rendered in CWP No. 475 of 2013 decided on 09.01.2015 titled as Naval Kumar alias Rohit Kumar vs. State of H.P. & others, awarded a compensation of Rs.1.25 crores to a boy aged 8 years, who suffered 100% permanent disability on account of amputation of his both arms. The relevant portion of the said judgment is reproduced as under:-*

*“49. Now, we have to award the just and fair compensation as per the principles laid down in the judgments cited herein above, taking into consideration the 100% disability of 8 years old boy at the time of electrocution. According to the averments made in the petition, he was a brilliant student. The petitioner would normally had started earning at least Rs.30,000/- per month after attaining the age of 20 years. His life expectancy can safely be taken as per the prevailing trends*



*to 70 years. He would have safely worked for 38 years. The appropriate multiplier, in the present case, would be 25. There is no possibility of marriage of the petitioner, therefore, no standard deductions can be made from the income. The income in entirety has to be taken into consideration. The annual income of the petitioner would be Rs.3,60,000/-, which is required to be multiplied by 25. The total future loss of the income of the petitioner comes to ( 30,000 x 12 x 25 = Rs.90,00,000/-) i.e rupees ninety lacs. The petitioner is also entitled to standard damages of Rs.10,00,000/- towards loss of companionship, life amenities/pleasures and loss of happiness. The petitioner is entitled to Rs.10,00,000/- for pain and suffering, including mental distress, trauma and discomfort and inconvenience. He is entitled to Rs.10,00,000/- towards attendant/nursing expenses for his life. He is also entitled to a sum of Rs.5,00,000/- for securing artificial/robotic limbs and future medical expenses.*

*50. The writ petition is allowed and in order to secure financial amenities for future of the petitioner, the respondents No. 2 & 3 would pay compensation of Rs.1,25,00,000/- (Rupees one crore twenty five lacs) to the petitioner. The amount will be deposited in a Fixed Deposit in the name of the petitioner under joint guardianship of his mother at Nationalized Bank, Chowari, Distt. Chamba, H.P., within a period of 60 days of the receipt of certified copy of this judgment, failing which, the amount shall carry interest @ 9% p.a. till deposited in the bank. The interest so accrued will be transferred in a separate Savings Account to be opened in the same Branch in the name of the petitioner, to be operated jointly by the parents, payable to the petitioner on regular monthly basis. The Manager, Nationalized Bank, Chowari, where the compensation amount shall be deposited, would*



*release a sum of Rs.10,000/- per month to the petitioner, through his guardian, to meet his daily expenses. This amount would take care of the petitioner's educational expenses, nutritious food and cost of attendant. A sum of Rs.5,00,000/- deposited in this Court shall be adjusted towards the amount to be paid to the petitioner as ordered herein above. The respondents No. 2 & 3 are directed to take all remedial measures to raise the height of the 'Lahru-Chowari Line' to make it safe and render the inhabitants electrically harmless and to make it beyond the reach of children and local residents of the inhabited localities.*

*The aforesaid decision passed by the Division Bench in the case of **Naval Kumar's case (supra)** was tested by the State of Himachal Pradesh before the Hon'ble Supreme Court in **State of Himachal Pradesh & Ors. Versus Naval Kumar alias Rohit Kumar (2017) 3 SCC 115** wherein the Hon'ble Supreme Court while reducing the compensation from Rs.1.25 crores to Rs.90 lakhs, held as under:-*

*17. In our considered view, taking into consideration the facts and circumstances of the case such as respondent's family background, his age (8 years), nature of permanent disability suffered by the respondent, his performance in studies, the determination of monthly/yearly income made by the High Court, expenses incurred and all the relevant factors, which are usually taken into account in awarding compensation to the victim, the respondent is held entitled for a total lump sum compensation of Rs.90,00,000/- (Rs. Ninety lacs) together with interest payable at the rate of 6% p.a. in place of Rs.1,25,00,000/- awarded by the High Court.*

*18. The award of Rs.90,00,000/- together with interest payable at the rate of 6% p.a., in our view, would fetch sufficient regular monthly income to the respondent by way*



*of interest alone, if the awarded sum is deposited in the Bank and would thus take care of respondent's upbringing and other needs for the rest of his life. The award of compensation determined by us is just and reasonable compensation payable to the respondent.*

*19. In view of foregoing discussion, the appeal succeeds and is allowed in part. The impugned order is modified to the extent indicated above by reducing the compensation awarded by the High Court.*

*20. In other words, the compensation awarded by the High Court is, accordingly, reduced from Rs.1,25,000,00/- to Rs.90,00,000/- with interest payable at the rate of 6% p.a. from the date of filing of the writ petition.*

*21. Let the appellant-State deposit the entire amount, as has been awarded by this Court, within 3 months from the date of receipt of the copy of this judgment in the High Court or pay to the respondent through his parents after proper verification.*

*8. The judgement rendered in Naval Kumar's case (supra) as decided by the Supreme Court in the year 2017 held an amount of Rs.90 lakhs as adequate compensation. Keeping in view the principles laid down for awarding compensation in Naval Kumar's case (supra) and the fact that the case in hand is similar to that of Naval Kumar, this Court deems it appropriate to award a compensation of Rs.95 lakhs to the petitioner with interest payable @7% per annum from the date of filing of the writ petition. The amount stands enhanced considering the fact that 5 years have elapsed since the amount was awarded by the Supreme Court in almost similar circumstances and taking into account the cost of inflation, stated to be almost 15% as on date."*

42. This Court concurs with the view taken by the Co-ordinate Bench of this Court and has examined the issue of grant of compensation in light of the above legal principles.



43. Reiteratedly, in the unfortunate incident engendering the instant writ petition, the petitioner No.1, at the age of 15, suffered severe injuries resulting in the amputation of her left arm. This incident necessitated her to undergo multiple medical interventions and surgeries. She endured significant trauma and disability, adversely affecting her ability to perform daily activities. Although she has joined school, she faces limitations in participating fully in activities such as sports, dancing, writing, and drawing. She requires constant assistance in her routine tasks. This incident has also limited her future career opportunities and may impact her prospects for marriage.

44. Similarly, the petitioner No. 2 has suffered the irreplaceable loss of his minor daughter, a bright student with promising potential. She could have brought laurel and acclaim to her parents, but this tragic incident shattered the aspirations and dreams of her parents. It is difficult to fathom the pain which the parents have suffered on account of loss of their minor daughter, and no amount can compensate this loss.

45. This Court expresses its grave concern over the manner in which the Chandigarh Administration has addressed the matter. Following the tragic incident, there was widespread public outcry, and the incident was featured on the front pages of both print and electronic media. To show active engagement, the Chandigarh Administration constituted a Committee led by a retired Judge of this High Court, which conducted the inquiry. The Chandigarh Administration not only accepted all the recommendations and remedial measures proposed by the Committee but



also ensured their implementation. However, when it came to the recommendation regarding the payment of compensation due to the established negligence of the Engineering Department, the Chandigarh Administration resorted to various legal technicalities, including the assertion that such a recommendation exceeded the Committee's terms of reference. This conduct reflects a lack of empathy and sensitivity on the part of the Chandigarh Administration.

46. In view of the above facts and circumstances, this Court is of the considered view that the petitioner No.1 is entitled to compensation of ₹ 50 lacs, and the petitioner No.2 is entitled to compensation of ₹ 1 crore. This compensation shall be payable in addition to the amounts already disbursed to the petitioners under the State Disaster Response Fund.

47. Before parting with this verdict, this Court deems it imperative to pass the following directions upon the respondent(s) concerned:-

*(a) The remedial measures/suggestions set out in the inquiry report submitted by the Committee shall be implemented in letter and spirit;*

*(b) This Court has been informed that the amount offered to the petitioner No.1 as one-time financial aid for the provision of a prosthetic limb has not been accepted by her parents, as they wish to explore the possibility of transplantation upon her attaining the age of majority. Accordingly, the Chandigarh Administration shall bear all*



CWP-20321-2023

41

*expenses relating to her medical treatment arising out of the injuries sustained in the present unfortunate incident. This shall include the expenses of prosthetic arm/transplantation surgery, whether undertaken in India or abroad.*

*(c) It has also been brought to the notice of this Court that the school fee of the petitioner No.1 has been waived for three academic sessions. The respondent No.4- School is directed to waive the school fee of the petitioner No.1 for all academic sessions until she completes her Senior Secondary Examination.*

*(d) The Education Department, U.T. Chandigarh, shall ensure that every school under its administrative control either permits students to consume their lunch/meals within their classrooms or provides a safe, hygienic and designated dining space for the consumption of meals by students.*

**48. Disposed of accordingly.**

**September 29, 2025  
devinder**

**(KULDEEP TIWARI)  
JUDGE**

|                                  |          |               |
|----------------------------------|----------|---------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes/No</b> |
| <b>Whether Reportable</b>        | <b>:</b> | <b>Yes/No</b> |