

(2013) 02 DEL CK 0315
In the Delhi High Court
Case No : W.P. (C) No. 10993 of 2009

Birender Thakur

APPELLANT

Vs

Delhi Jal Board

RESPONDENT

Date of Decision : 19-02-2013

Acts Referred:

Citation : (2013) 3 ACC 298

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

G.S. Sistani, J.—By the present writ petition, the petitioner claims compensation in the sum of Rs. 10.00 lakh for the inaction and careless attitude of the respondent in attending the complaints of the petitioner and the general public, especially, in the outskirts of Delhi where the open manholes have become death traps. Rule. With the consent of Counsel for the parties writ petition is set down for final hearing and disposal.

2. As per the petitioner, petitioner was residing in a rented accommodation with his family at C-272-A, Ashok Nagar, Delhi. The petitioner is a barber by profession. On 17.5.2009 at about 10.15 a.m. a water tanker of the respondent, Delhi Jal Board, arrived at C-Block, Pump House, Near Kali Badi Mandir, New Ashok Nagar, Delhi. Men, women and children gathered in a queue near the water tanker and started taking water from the said tanker. The petitioner and his daughter, namely, Simran, aged about seven years, were standing near the tanker to fetch water. There was an open sewer adjacent to the tanker. While the daughter was moving forward she slipped and fell into the uncovered manhole. The fire brigade and the Ambulance reached at the spot and fished out the daughter of the petitioner from the manhole. The daughter of the petitioner was taken to L.B.S. Hospital where the Doctors declared her brought dead. The petitioner, prior to the said incident, had lodged a complaint vide Complaint No. S.00000879 with the respondent to cover the said manhole but to no effect.

3. Learned Counsel for the petitioner submits that due to the negligence of the respondent the daughter of the petitioner fell in the open manhole and lost her life despite specific complaints from the petitioner and the neighbours no action was taken by the respondent. Counsel further submits that the petitioner also lodged an FIR being No. 158/09 u/s 304A of the Indian Penal Code at Police Station, Ashok Nagar. The local Police conducted the postmortem upon the daughter of the petitioner. The Doctor was of the opinion that the daughter of the petitioner died of "Anti mortem drowning". A copy of the post-mortem report has been filed along with the writ petition.

4. Learned Counsel for the petitioner contends that the manhole in which the daughter of the petitioner slipped was not covered with a lid due to which she slipped in the open sewerage tank, resulting in her untimely death. Counsel further submits that the death of the daughter of the petitioner was caused due to dereliction of duty on the part of the respondent, who are responsible for the upkeep of the manholes in the area. Counsel submits that the petitioner in these circumstances prays for compensations.

5. Learned Counsel for the parties point out that efforts were made to resolve the matter amicably and initially the respondent had agreed to pay a sum of Rs. 1,00,000 to the petitioner keeping in view the peculiar facts and circumstances of this case. Subsequently the matter was referred to Delhi High Court Mediation and Conciliation Centre where the offer was increased by the respondent to Rs. 1,50,000.

6. Learned Counsel for the petitioner submits that the amount being offered by the respondent is not acceptable, however, he further submits that the respondent be directed to pay at least Rs. 2,50,000 to the petitioner. The statement to this effect was made by the petitioner on 26.9.2012. Petitioner also appended his signature on the order-sheet of 26.9.2012. Counsel for the respondent submits that keeping in view the peculiar facts of this case and without returning a finding that the respondent has failed to perform its duties or there is any negligence on their part, the Court may fix the amount. Counsel for the petitioner has no objection to the suggestion of Counsel for the respondent.

7. Having regard to the peculiar facts of this case and taking into consideration that the respondent had agreed to pay Rs. 1,50,000 to the petitioner as a special case to meet the ends of justice and without this being treated as a precedent, the respondent shall pay Rs. 2,50,000 to the petitioner for the loss suffered by him. Rs. 2,50,000 shall be released to the petitioner within six weeks from the date of receipt of this order, failing which the amount will carry interest @ 9% per annum, which shall also be payable to the petitioner. Accordingly, writ petition and application stand disposed of.