

(2002) 11 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17386 of 2001

Prem Chand and Another

APPELLANT

Vs

Uttari Haryana Bijli Vitran Nigam Limited and Others

RESPONDENT

Date of Decision : 21-11-2002

Acts Referred:

Citation : (2003) ACJ 1794 : (2003) 133 PLR 323

Hon'ble Judges : S.S. Nijjar, J;M.M. Kumar, J

Bench : Division Bench

Advocate : Vivek Suri, for the Appellant; Kamal Sehgal, for Respondent Nos. 1 and 2 and Ritu Bahri, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

S.S. Nijjar, J.—The unfortunate parents of one Jai Pal who died due to electrocution on 28.05.2001 are claiming compensation from the respondents on the allegation that the accident occurred on account of the negligence of the officials of respondent No. 1. The deceased was 17 years of age. At the time of his death, he was earning Rs. 3000/- per month.

2. On the fateful day, deceased Jai Pal had gone for grazing the cattle in the fields of Mangta Lambardar of village Toka, Tehsil and District Panchkula. He was electrocuted on coming into contact with electric current from 11 KV lines of the respondents which had fallen on the ground due to heavy storm the night before. The post-mortem report dated 29.05.2001 shows that the death occurred due to electric current causing shock which was sufficient to cause death in the normal course of events. One Arjan Singh son of Chamela Ram, Sarpanch of village Toka, gave the information to the police and a DDR was recorded. The death certificate Annexure P-3 also shows the cause of death "due to electrocution". The petitioners gave a representation to the respondents claiming a sum of Rs.5 lacs as compensation. According to the petitioners, the death was due to the negligence of the respondents. The wire connecting the poles were only four to five feet above the land where the deceased was grazing the cattle. The distance

between the poles is 550 ft. Which normally should be restricted to only two hundred feet. Furthermore, the wires were sagging only about four to five feet above the ground, whereas they ought to have been at the height of, at least, 12 feet. In fact, the villagers had made a number of requests to the respondents to rectify the fault. The complaints of the villagers were not attended to by the respondents. According to the petitioners, the respondents have completely ignored all the norms and have not taken reasonable care despite having the knowledge that the wires were hanging low.

3. Written statement has been filed by respondent Nos. 1 and 2. These respondents have submitted that the petitioners will have to prove by leading evidence that the death took place due to electric current from 11 KV lines of the respondents which fell on the ground due to heavy storm. Therefore, according to the respondents, the petitioners are to be relegated to the ordinary remedy of civil suit. In paragraph No. 3 of the written statement, the respondents, however, admitted that in the night of 27/28.05.2001 there was a heavy wind storm and the ACSR conductors wire of 11 KV fell on the wooden cross arm and the conductor wire came down. Excepting the aforesaid, no other justification has been set out for denying the compensation to the petitioners.

4. Written statement has also been filed by the Chief Electrical Inspector, Haryana, on behalf of respondent No. 3. After investigation, a report was released on 11.01.2002. In this report, it is stated that "from the statements of the Nigam's officials and eye witnesses it has been observed that the wooden cross arms provided on the pole of 11 KV Ratewali Feeder got tilted and one number conductor slipped from the wooden cross arm due to breaking of binding of Pin-Insulator. In this process, the phase conductor came down at a very low height i.e. 4 to 5 feet from ground level which could cause accident to any person whosoever came in contact with the live conductor. In the present case the accident occurred while Jai Pal (deceased) while grazing his sheep/goats in the fields happened to pass under live hanging conductor came in contact with it and got electrocuted on the spot. The hanging conductor having inadequate clearance remained in such a position that it did not have any contact with the system and as such remained live. Therefore, tripping could not be recorded at the sub station. The accident took place due to inadequate clearance of the conductor from the ground level and due to poor maintenance of 11 KV line. The accident could have been averted (i) had the maintenance of 11 KV line been done properly from time to time and hanging conductor or 11 KV line would have been set right by the maintenance staff well in time (ii) had the guarding with effective earthing been provided on the 11 KV line".

5. We have heard the learned counsel for the parties at length and perused, the record of the case.

6. A perusal of the report Annexure R-3/1 clearly shows that deceased Jai Pal got electric shock and met with the fatal accident on 28.05.2001, while he was grazing sheep/goats in the fields. It is observed that the deceased was

electrocuted as the wire did not have adequate clearance from the ground. He came in contact with the live high tension conductor wire and got electrocuted on the spot.

7. We are of the considered opinion that the aforesaid facts clearly establish that the , employees of respondent No. 1 were negligent. A young life has been snuffed out due to the callous disregard of the respondents in taking necessary pre-cautions to maintain the high tension wire at a high enough level to prevent such accidents. We are satisfied that inaction on the part of the respondents in not keeping adequate clearance of the High Tension conductor wire from the ground level, is enough to establish negligence" on the part of officials of respondent Nos. 1 and 2. The respondents are, therefore, liable to compensate the petitioners for the accidental death of their son. This view of our finds support from a Division Bench judgment of this Court in the case of Santosh Devi and Ors. v. Haryana Vidut Prasaran Nigam and Ors. (2001) 129 P.L.R. 75. In similar circumstances, the Division Bench awarded compensation in the sum of Rs. 2 lacs to the petitioners therein. In the present case, at the time of his death, the deceased was 17 years of age. He is stated to have been earning Rs.3000/- per month. We, therefore, award a sum of Rs.2 lacs to the petitioners by way of compensation. The payment shall be made to the petitioner within a period of four weeks from the date of receipt of a certified copy of this order. In case, the petitioners have any other claim, they would be entitled to seek their remedy before the appropriate forum including the civil Court.

The writ petition is accordingly allowed. No costs.

Sd/- M.M. Kumar, J.