
(2019) 09 P&H CK 0224
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 205 Of 2017

Shakuntla

APPELLANT

Vs

Uttar Haryana Bijli Vitran Nigam Ltd. & Others

RESPONDENT

Date of Decision : 23-09-2019

Acts Referred:

Indian Electricity Act, 2003 — Section 68

Indian Electricity Rules, 1956 — Section 29, 44, 45, 46, 59, 91

Citation : (2019) 09 P&H CK 0224

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Sumit Gupta, Sandeep Saini, Vishal Garg, Saurabh Mohunta

Judgement

Rajiv Narain Raina, J

1. This case falls within the legal principles laid down in CWP No.14046 of 2012 titled 'Raman Vs. State of Haryana & others' decided on 02.07.2013, in a case of electrocution and compensation with the judgment reported in 2013 (3) ACC 570. The only difference is that Raman was injured grievously, while in the present case, a 13 years old boy died in coming into contact with a live 33000 KW over head power transmission lines passing over the roof of his neighbour's house situated in Village & Post Office Loharheri, Tehsil Bahadurgarh, District Jhajjar, Haryana. After receiving the high voltage electric shock, the injured boy was shifted to General Hospital, Jhajjar for treatment on the date of the accident i.e. 14.08.2016 from where he was referred to PGIMS, Rohtak for life saving treatment. Unfortunately he succumbed to burn injuries due to electric shock on 19.08.2016. He was the younger of the two sons of his parents, that is, mother and pre-deceased father.

2. The widow mother of the deceased - Neeraj is the petitioner claiming compensation for the loss of her teenage child. It is the case of the petitioner that Neeraj was playing cricket with other children. The cricket ball had fallen on the roof of a neighbour's house and Neeraj went there to collect the ball like any

other boy would do in his place. There he accidentally came into contact with the high voltage transmission line sagging at a very low level passing over the colony and the house and within arm's reach. The high tension transmission lines were not properly tightened to the poles due to which reason one of the offending cables touched unwary, unknowing Neeraj as he must have tried to retrieve the cricket ball from the roof and there met his unfortunate fate. The death is sadder still for the poor mother. The post-mortem report confirms death as a result of electrocution. The Doctor's opinion is on record. She has claimed compensation to the tune of Rs.50 lakhs from the UHBVNL for death due to negligence and carelessness of the supplier of deadly electrical energy.

3. The respondent UHBVNL has put in its written statement taking the defence that the neighbouring house was an illegal and unauthorized construction and, therefore, it is not liable to pay compensation. There was no loose connection or breakage in the cable. Furthermore, the lines were drawn years before the colony came up and hence they are not at fault. The petitioner should be relegated to the remedy of a civil suit. In my view since the facts are not seriously disputed by the respondents therefore writ is maintainable against the Nigam.

4. Having considered the facts and circumstances of the case as well as the case law on the point, as noticed above, and hearing the learned counsel for the parties, this Court is of opinion that the legal defences taken by the UHBVNL are those which have been ruled out in Raman's case by this Court as well as of the Supreme Court in appeal reported in (2014) 15 SCC 1 titled 'Raman v. Uttar Haryana Bijli Vitran Nigam' and in a large catena of cases on the subject which need not be referred to, to build a thesis, in view of the statutory and strict adherence to duties enjoined on the UHBVNL under the Indian Electricity Act, 2003 to keep electric wires/lines harmless and away from habitation and for their constant upkeep. The principle of strict and vicarious liability and of *res ipsa loquitur* applies and is sufficient to imply negligence and it would not be an argument to succeed by the managers of a potentially dangerous thing that with reasonable care of third party the accident could have been avoided or the boy should not have been on the roof in the first place. The ratio of the Raman cases applies fully to the present case as all the relevant provisions of the Act have been considered in the judgments except that that was a case of grievous injury leading to triple amputation of the limbs, while the present is a case of death by electrocution. Those relevant provisions are Section 68 of the 2003 Act read with Rules, 29, 44, 45, 46, 59 and 91 of the Indian Electricity Rules, 1956. Elaborate discussion on the provisions is not required since they have already been considered in depth in Raman and many other decisions of the constitutional courts in electrocution cases.

5. In the present case, the tragic accident took place in mid 2016 when directions had already been issued by this Court in Raman's case in 2013 and affirmed by the Supreme Court in 2014 and were in operation directing the

power utilities to remove their power lines from over habitation so that they do not come in contact with human life and endanger it. There has been abject failure to do so to the peril of the Nigam. The relevant direction (viii) in Raman's case was as follows:

viii) A direction is also issued to the Nigam to immediately raise the height of the offending 11 KV transmission lines above the abadi to make it safe and render them electrically harmless to habitation and take them beyond the reach of man below or to devise such other alternatives so as to by-pass the colony altogether in village Sanoli Khurd, District Panipat to start with."

6. In view thereof and having regard to all the factors applicable to damages for loss of life and breach of statutory duties and consequential negligence I deem it appropriate in order to serve the ends of justice to award adequate, reasonable and just compensation in this case in a sum of Rs.30 lakhs as reduced from the claimed amount, which, the respondent UHBVNL will pay to the petitioner within two months from the date of receipt of a certified copy of this order. In case, the payment is not made within the period fixed, the compensation will run interest at the rate of 9% p.a. from the date of default till payment.

7. With these observations and directions, the petition stands allowed. I may record that any amount of monetary compensation is insufficient for the tragic loss of human life in the circumstances of this case and cases of the kind, of which there are many, leaving a widow and family to the vagaries of life and its misfortunes to fend for her. The human condition cannot be taken care of adequately only by the limitations of the laws on the statute book which does not conceive all situations which may arise. The writ court must step out from the confines of the traditional law of compensation while assessing grief in terms of money; a common law principle courts have had to contend with while drawing monetary compensation, and have had ever to grapple with in a complex web of precedents. Fair compensation, at the end of the day, is the only solace a court can offer for the unforeseen loss of tender life to a grieving family. Compensatory punitive damages are not unknown to the law to account for both of loss of life and breach of statutory obligations. There is an element of those in the relief granted.

8. Nevertheless, this judgment and order does not curtail the right of the petitioner to claim a higher amount of compensation based on tort from the civil court, if advised, and if law accommodates.