
(1996) 05 SHI CK 0006

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 544 of 1995

Smt. Dolma and Others

APPELLANT

Vs

H.P. State Electricity Board and Another

RESPONDENT

Date of Decision : 30-05-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 154
Electricity Act, 1910 — Section 33
Electricity Rules, 1956 — Rule 29

Citation : (1996) 2 ShimLC 465

Hon'ble Judges : Kamlesh Sharma, J;A.K. Goel, J

Bench : Division Bench

Advocate : Bimal Gupta, for the Appellant; R.S. Jamalta, for the Respondent

Final Decision : Allowed

Judgement

Kamlesh Sharma, J.—Petitioner No. 1 is widow and Petitioners No. 2 to 3 and proforma Respondent No. 5 are daughters and sons of Puran Chand (hereinafter called the claimants). They have filed the present petition under Articles 226 and 227 of the Constitution to agitate their claim for compensation of an amount of Rs. 6,50,000 from Respondents No. 1 and 2 for the death of Puran Chand by electrocution Initially, the claimants had also raised another grievance that they were not paid pensionary and other benefits due to them by the State of Himachal Pradesh and Superintending Engineer, 6th Circle, H.P.P.W.D. , Kullu, who were also impleaded as Respondents No. 3 and 4, but by order dated 21-11-1995, Respondents No. 3 and 4 were deleted from the array of Respondents in view of their reply-affidavit that they had paid an amount of Rs. 1,20,664 towards the legitimate claim of the claimants and had also sanctioned pension of Rs. 1,620 per month w.e.f. 7-5-1994.

2. Admittedly, Puran Chand was working as work-charged driver in the Office of Assistant Engineer, Sub-Division No II, H.P.P.W.D., Kat-rain, District Kullu. On

5-5-1994 he was asked by the Assistant Engineer to bring diesel from the H.P.P.W.D. Petrol Pump, Mechanical Workshop, Shamshi through Canter No. HIE 1860. After collecting the diesel Puran Chand drove back to the Office of the Sub-Division, Katrain and reported his arrival to the Sub-Divisional Officer on 6-5-1994 at 8.30 a.m., who further directed him to unload the diesel at the Store of the Sub- Division near Nagar Bridge, Patli Kuhal. In order to comply with the said directions Puran Chand parked the Canter in the campus of the Store for unloading the diesel and thereafter went to nearby fields to ease himself, where later he was found dead as a result of electrocution by coming in contact with electric 11 KV feeder, which was lying on the ground and around a tree after having been snapped from the pole. The claimants have placed on record photographs marked A to D to show snapped electric wire lying on the ground and also the dead body of Puran Chand with injury on his left foot. According to the claimants, left foot of Puran Chand fell on the live electric wire lying unattended on the spot due to negligence of Respondents 1 and 2, as a result of which he got electrocuted. This fact has further been substantiated by post-mortem report (Annexure P-6) in which the Doctor has opined that, "The suspect has died of electrocution leading to sudden death".

3. The claimants have also produced a copy of F.I.R. (Annexure P-4) which was got registered Police Station, Manali, District Kullu by Vijay Kumar Kapoor, the then Sub-Divisional Officer, Sub-Division II, H.P.P.W.D. Katrain on the same date i.e. 6-5-1994 at 3.00 p.m. In his statement u/s 154, Code of Criminal Procedure on the basis of which the F.I.R was registered, he had admitted that Puran Chand driver had reported to him on 6-5-1994 at 8.30 a.m. after bringing diesel from Shamshi Workshop in Canter No. HIE 1860 and he had further directed him to unload the diesel in a Store near Nagar Bridge, Patli Kuhal. Thereafter, on receiving telephonic information at 10.00 a.m. that Puran Chand got electrocuted, he reached at the Store and on enquiry from the cleaner of the Canter, namely, Gian Chand, he came to know that Puran Chand had gone to attend the call of nature in the nearby fields, where- from after some time a noise was heard and he was found dead on the spot due to electrocution. Viyar Kumar Kapoor has further stated that, "An electrocution sign was found near the base of big tree on the person of Sh. Puran Chand This incident has occurred due to electric live G. I wire which was lying near tree".

4. Respondents 1 and 2 in their reply filed on the affidavit of K.C. Sharma, Superintending Engineer (OP) Circle, H.P.S.E.B. Mandi, have denied their liability to pay damages to the claimants, as according to them Puran Chand had died due to his own negligence, as instead of reporting the matter to their Complaint Office that guarding wire on the Patli Kuhal Kararsu feeder line had got snapped and fallen on one of the trees of his orchard, he himself climbed on the top of the retaining wall and started pulling the guarding wire, possibly with the intention to tie it with a nearby Kash tree and while doing so, he had put one foot on the top of the guarding wire. For helping him to pull the guarding wire, he had called Ram Singh son of Karam Singh and Tenjin son of Urgian, labourers, who were

working in the nearby fields but before they could reach on the spot, the guarding wire fell on the lower line of 11 KV PCP spur line, which resulted in tripping of electric supply in the 33 KV Control sub-Station but before the wires could go dead, Puran Chand got electrocuted as he was standing right on top of the said guarding wire. Along with their reply, Respondents 1 and 2 have placed on record the alleged statements of two labourers, namely, Ram Singh and Tenjin recorded during the inquiry held by Assistant Executive Engineer, H.P.S.E.B. Electrical Sub-Division, Nagar.

5. It is further explained by Respondents 1 and 2 in their reply that, "In order to avoid accidental fall of the higher conductor (electric wire) on the lower conductor H.P. State Electricity Board provide for putting G.I. wires (known as guarding wire) below the electric wires running at the higher level with the help of guarding clamp. There were 2 guarding wires at the 2 extreme of the cross arm of the aforesaid Patlikuhl Kararsu fidder. The aforesaid guarding wires, in turn, are joined together by lacing wires. The aforesaid guarding wires and lacing cross wires do not carry any current and the same provide a resting platform for the wire running of higher level in case of accidental fall. In case of fall of live wire on the guarding wire, there is immediate tripping resulting in switching off the electric current in the line which fall on the guarding line".

6. Though Respondents 1 and 2 have denied any negligence on the part of their employees, yet it is admitted that the fault of snapping of guarding wire was caused due to high velocity winds/storm, which was an act of God, beyond their reasonable control. They have also admitted that since the said fault was of recent origin, it could not be detected by the line staff. However it was rectified immediately when the line became available to the officials of Respondents 1 and 2 after the police investigation was over on 6-5-1994 itself.

7. On receipt of reply-affidavit of Respondents 1 and 2, the claimants moved CMP No. 3846 of 1995 for directions to Respondents 1 and 2 to place on record the report of Electrical Inspector pertaining to electrocution of Puran Chand, as u/s 33 of the Indian Electricity Act, 1910, the matter was required to be reported to him. This application was allowed by order dated 10-4-1996 in pursuance to which the report dated 17-6-1995 given by the Electrical Inspector is produced on record with the affidavit of Shri K.C. Sharma. Superintending Engineer (OP) Circle, H.P.S.E.B., Mandi, In the report it is submitted that the investigation of the accident was carried out on 29-11-1994, that is, more than six months after the accident. The observations and recommendations made in the report are:

Observation -The electric supply lines and apparatus are required to be constructed and maintained in such a manner as to ensure safety of person and property as per Rule 29 of I.E. Rules, 1956. Had this rule been taken care of, the GI wire provided for guarding could not have broken. Late Sh Puran Chand Driver was probably not aware of the consequences of pulling the G.I. wire. Otherwise he should have gone to the concerned Junior Engineer or other concerned staff of HPSEB to remove the broken wire from his orchard.

Recommendations.-The Junior Engineer's and their staff who are in contact with the people should educate them about the safety measures to be taken as and when they come across with any broken conductor lying on the ground. Assistant Engineer in- charge should also write to the Pradhan of Panchayats falling in the jurisdiction of his Sub-Division suggesting safety measures to be taken by the people when they come across broken conductor/wire lying on the ground.

8. After hearing the learned Counsel for the parties we have given our best consideration to their respective contentions. Normally, this Court while exercising its writ jurisdiction does not adjudicate such matters and assess the amount of compensation, but there are exceptions when in order to help the poor and destitute widow and minor children the High Courts have come to their rescue, more so when from the material on record the negligence stands proved. The present case falls in such an exception, as it is not in dispute that Puran Chand had died as a result of electrocution by a snapped guarding wire, which came into contact with the live line of 11 KV conductor, as mentioned in the report of the Electrical Inspector. Though as per the stand of Respondents 1 and 2 the guarding wire had got broken due to high velocity winds/storm beyond their reasonable control, yet it is admitted by them that this fault could not be detected by their line staff as it was of recent origin. The Electrical Inspector in his observations has also pointed out that, "The electric supply lines and apparatus are required to be constructed and maintained in such a manner as to ensure safety of person and property as per Rule 29 of Indian Electricity Rules, 1956. Had this rule been taken care of, the G.I. wire provided for guarding could not have broken". Even if it is assumed that Puran Chand being not aware of the consequences, had pulled the G.I. wire to remove it from one of the trees of his orchard, as alleged by Respondents 1 and 2, they cannot be absolved of their negligence in not maintaining the electricity supply lines and repairing the fault in question in performance of their statutory duty. Their admission that the said fault being of recent origin could not be detected by their officials, is enough to hold them liable, as it is their duty to keep constant vigil and guard to maintain the supply lines and apparatus in perfect condition under Rule 29 of Indian Electricity Rules, 1956 in order to avoid any accident like the present one. Had the Respondents performed their statutory obligation by removing the snapped G.I. wire and by repairing the fault immediately after the storm, the accident would have been avoided and the claimants would not have become destitute. In these circumstances, we hold that Puran Chand got electrocuted due to negligence of Respondents 1 and 2 and they are liable to compensate the claimants.

9. Now the question arises as to what amount of compensation should be just and reasonable ? It is not in dispute that Puran Chand was 46 years old and was drawing a salary of Rs. 3,456 per month before his death being work-charged driver in H.P.P.W.D. Petitioner No. 1, the widow of Puran Chand, has been granted family pension of Rs. 1,620 per month besides payment of Rs. 1,20,664 to the claimants as other benefits. Petitioner No. 1 has also been engaged on

muster roll as daily waged Belder on compassionate ground. In these circumstances, an amount of Rs. 2,50,000 will be just and reasonable compensation, due and payable to the claimants by Respondents 1 and 2. They are also entitled to interest on this amount at the rate of 10% per annum from the date of filing the writ petition i.e. 23-5-1995 till the date of payment.

10. In compliance to our order dated 24-5-1995 Respondents 1 and 2 have already deposited an amount of Rs. 1,50,000, out of which Rs. 50,000 have been released in favour of the claimants as ordered on 4-1-1996 and the remaining amount of Rs. 1,00,000 is lying in fixed deposit. Therefore, we direct Respondents 1 and 2 to deposit the balance amount of compensation of Rs. 1,00,000 within a period of two months from today with interest on this amount as well as the amount of Rs. 1,50,000 from 23-5-1995 till the date of deposit. The award amount is apportioned amongst the claimants as under:

Petitioner No. 1 Dolma (widow) Rs. 30,000 Petitioner No. 2 Nirmala Devi (daughter) Rs. 25,000 Petitioner No. 3 Sita (minor daughter) Rs. 40,000 Petitioner No. 4 Raju (minor son) Rs. 40,000 Petitioner No. 5 Sanju (minor son) Rs. 40,000 Proforma respondent No. 5 Geeta Devi (married but deserted daughter) Rs. 25,000 _____

Total Rs. 2,00,000

The claimants will also be given interest proportionate to their share of award amount.

11. Accordingly, the writ petition is accepted with costs, which are quantified at Rs. 2,000, which Respondents 1 and 2 will deposit within a period of two months from today.