
(2012) 07 P&H CK 0078
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 13881 of 2011 (O and M)

Surinder Kaur and Another	Vs	APPELLANT
Punjab State Power Corporation Ltd. and Others		RESPONDENT

Date of Decision : 26-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 171 PLR 718 : (2013) 3 RCR(Civil) 243

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : M.S. Bedi, with Ms. Deepali Malhotra, for the Appellant; Ashok Singh Chaudhary, for the Respondent

Final Decision : Allowed

Judgement

Mahesh Grover, J.—The petitioners pray for grant of compensation for the loss of two male members of their family i.e. Gurnam Singh aged 48 years and Jagjit Singh aged 16 years. Both these persons died on account of electrocution when they were working in the field as the high-tension cable fell on Gurnam Singh. In an effort to save Gurnam Singh, his son Jagjit Singh also got electrocuted. They were brought to the hospital by Satnam Singh who was the brother of Gurnam Singh, but before reaching the hospital, they breathed their last. The post-mortem report conducted on the body of the deceased affirmed that the death had been caused due to electrocution. It is in this background that petitioner No. 1 who is the widow of Gurnam Singh and petitioner No. 2 who is his daughter, pray that adequate compensation be granted to them since two male members of their family lost their lives. The respondents have filed their reply and have stated that they are not in any way to be blamed for the deaths since on 26.8.2008, strong winds blew which had broken a pole and a new pole was installed; the wires were repaired, but yet the same broke and therefore, this was something beyond their control. However, the respondents have paid compensation to the petitioners amounting to Rs. 3,12,940/- for the death of

Gurnam Singh and an amount of Rs. 1,00,000/- for the death of Jagjit Singh. The respondents thus pray that they be absolved of any further liability.

2. I have considered the matter and am of the opinion that this is a case where the principles of *res ipsa loquitor* can be applied. Evidently, the facts are such that the negligence of the respondents is writ large on the face of it. Two persons working in the farm lost their lives on account of the live wires falling on them and this too, when according to the respondents, they had repaired the pole and the transmission line immediately preceding the date of the incident. It is apparent that the work was not executed with caution leading to the unfortunate accident.

3. There is thus, no escape from the conclusion that the respondents have been negligent in their approach and therefore, they necessarily have to be burdened with compensation which the petitioners deserve to be granted considering the fact that two male members of the family lost their lives.

4. The Hon^{ble} Supreme Court in *Municipal Corporation of Delhi, Delhi v. Association of Victims of Uphar Tragedy and others*, 2012(3) Recent Apex Judgments 92 (S.C.) has held that the Constitutional Court while exercising its power under Article 226 of the Constitution of India is certainly empowered to invoke its jurisdiction to answer the claim of compensation and it is not necessary to force the litigant into the throes of long litigation before the civil courts and also to evolve its own methodology to assess compensation.

5. Accordingly, this Court unhesitatingly in the exercise of its jurisdiction under Article 226 of the Constitution of India proceeds to determine the compensation, as the issue of negligence is no longer in question.

6. *Prima facie* this Court is of the opinion that considering that the deceased husband of petitioner No. 1 was having agriculture holding of 2-1/2 acres and was also having some cattle, it would be safe to assume that he would be earning Rs. 5000/- per month (Rs. 4000/- from agriculture land and Rs. 1000/- from cattle respectively), meaning thereby that his annual income would be Rs. 60,000/-. Applying a cut of 1/3rd which he would have spent on himself, the rest would come to Rs. 40000/- which he would have been contributing towards his family. Keeping in view the fact that his age was 48 years, when the multiplier of 13 is applied, the compensation works out to Rs. 5,20,000/-.

7. Similarly, for the death of the son of petitioner No. 1 who was aged only 16 years and was a National Athlete, it would be safe to assume that he being able-bodied, would be contributing Rs. 3000/- per month towards family income. Multiplied by 12, his income works out to Rs. 36000/-per annum. Considering his age at 16 years and when multiplier of 17 is applied, the compensation works out to Rs. 6,12,000/-. He has to be compensated additionally as the negligence of the respondents has led to the cutting short of the life of a promising Athlete and thus an amount of Rs. 1,50,000/- is assessed on this count. This brings the figure of compensation assessed in the case of the son of petitioner No. 1 to Rs.

7,62,000/-. Both figures when taken together, come to Rs. 12,82,000/- which is rounded to Rs. 12,85,000/-. According to the principles governing the grant of compensation in M.A.C.T. cases which ordinarily should govern the instant case as well and considering the underlying principle of grant of compensation in M.A.C.T. cases is the tortious liability on account of negligence, it would be safe to grant an amount of Rs. 30,000/- for funeral expenses on account of the death of the father and the son and Rs. 1,00,000/- on account of loss of love and affection.

8. The respondents have already paid a sum of Rs. 5,12,000/-. Therefore, they are now required to pay a sum of Rs. 9,03,000/-.

9. The said compensation be released to the petitioners within a period of two months from the date of receipt of a copy of this order. The petition stands allowed in the aforesaid terms.