
(2016) 02 P&H CK 0041
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 23932 of 2015

Sushma Rani

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 24-02-2016

Acts Referred:

Punjab Municipal Act, 1911 — Section 182(2)

Citation : (2016) 1 LAR 723 : (2016) 2 RCRCivil 289

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : V. Ramswaroop, Addl. A.G, Punjab and P.P. Chahar, DAG, Haryana, J.S. Toor, Advocate, Vishwajit Bedi, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J. - The petitioner, a housewife, has prayed for compensation for the death of her husband Vidya Bhushan, killed by a stray bull on 01.02.2014, when he was going to the construction site of his house on his moped No. PB-48-C-2067. Deceased Vidya Bhushan was taken to the Civil Hospital, Mandi Gobindgarh in an ambulance by the neighbour, where he succumbed to the injuries caused by the bull.

2. The petitioner, who is now left with her 18 years old daughter, studying in 12th class, alleged to be at the mercy of her relations, moved an application for compensation to the respondents and ultimately had to file a writ petition bearing CWP No. 5488 of 2015, which was disposed of on 25.3.2015 by this Court with the following observations:

"Without going into the merits of the case or commenting thereon, the present petition is disposed of with directions to The Deputy Commissioner, District Fatehgarh Sahib, Punjab and The Municipal Corporation through its Executive Officer, Mandi Gobindgarh, District Fatehgarh Sahib, Punjab, respondents No. 2 and 3 respectively to consider and decide the applications of the petitioner dated

21.01.2015 (Annexures P-3 and P-4 respectively) within a period of three months from the date of receipt of certified copy of this order.

In case the claim of the petitioner is accepted, the consequential benefits, if any, be released to her within a further period of two months. In case the claim of the petitioner is not to be accepted, a well-reasoned and speaking order be passed and conveyed to her forthwith."

3. Thereafter, the Deputy Commissioner, Fatehgarh Sahib passed the order on 23.7.2015, the relevant portion of which reads as under:

"That I have thoroughly examined the case and explored all the possibilities available in this case. The petitioner has alleged that the death of her husband was due to injuries caused by a bull. As per the police report, the person has been killed in an accident with a bull. Though it is one of the duties of the Municipal Committee to take care of such stray animals but no provision is available in Municipal Act, 1911 to provide compensation to the family of the deceased if any such incident occurs. Also, it is pertinent to mention that the case of granting compensation to the deceased in such cases is not covered under any rules or policies of the Government of Punjab. The provisions of the Chief Minister Relief Fund also do not cover such type of cases. Also no compensation can be provided to the family of the deceased by the Red Cross Society, Fatehgarh Sahib as the case is not covered under the norms of the society. The deceased could have been compensated, had he taken any insurance to cover accidental death in such accidents. The petitioner has not mentioned anything to this effect, therefore, it cannot be commented upon.

The husband of the Applicant died in though an extremely unfortunate and tragic accident but in the absence of any provision/policy in Government to grant compensation in such accidental death, no compensation can be given to the family of the deceased person.

In view of the above, I kamaldeep Singh Sangha, IAS, Deputy Commissioner, Fatehgarh Sahib decline the application date 21.01.2015 filed by the Applicant (Annexure P-3 with the CWP)."

4. The petitioner has again approached this Court seeking compensation. Notice was issued by this Court not only to the respondents but to the State of Haryana as well to find out as to whether any provision has been made by the State of Haryana for compensating persons like the petitioner, in case of injury/death by a stray cattle/animal.

5. Learned counsel for the state of Haryana has produced a Notification dated 27th April, 2007 notifying the Haryana Municipal (Registration and Proper Control of Stray Animals) Bye-laws 2006 in which "cattle pound" has been defined in clause (e) of para 2 of the Bye-laws, which means an enclosure where all types of stray animals are kept after being impounded. Stray animals have been defined in clause (j) of para 2 of the Bye-laws, which means an ownerless animal

(male-female) as defined in clause (b) of section 2 found straying within the municipal limits; and clause (b) of para 2 of Bye-laws defines "animal", which means any he/she buffalo, horse, camel, cow, calf, bull, pony, donkey, goat, sheep, pig, elephant, neal gayen, deer etc. Para 10 of the Bye-laws further provides that all the revenue collected by way of registered/renewal fee and penalty charges shall be used for the following purposes, namely:

- (a) for maintenance of cattle pound;
- (b) for payment of compensation to the victims of stray cattle;
- (c) for payment of premium for third party insurance of registered animals; and
- (d) cost of identification and veterinary health care of stray animals.

6. In so far as the State of Punjab is concerned, a short reply by way of a short affidavit dated 06.1.2016 of the Director-cum- Special Secretary Local Government, Punjab, Chandigarh has been filed stating that though the Department of Local Government, Punjab has issued bye-laws, 2006 regarding stray animals but no provision has been made for compensation in case of accidental death by the stray animals.

7. Learned counsel for the petitioner has referred to Section 323 (4) of the Punjab Municipal Corporation Act, 1976, which says that "any animal found straying as aforesaid may be removed by an officer or employee of the Corporation or by any police officer to a pound. It is submitted that post-mortem report of deceased Vidya Bhushan and the police report leaves no doubt about the manner in which the death of Vidya Bhushan has occurred. Learned counsel has referred to the judgments of Delhi High Court titled Shakuntala v. Govt of NCT of Delhi and another, 2010(7) RCR (Civil) 2397, Delhi High Court, Parmeshwar v. Government of NCT of Delhi and Anr. Passed in W.P (C) 6396 of 2010, decided on 30.8.2013 and a judgment of this Court reported as Parminderjit Kaur and another v. State of Punjab and others, 2015 (2) PLR 693.

8. Learned counsel for the respondents did not cite any judgment to deny the right of the petitioner to claim compensation on the death of her husband Vidya Bhushan except for submitting that the petitioner may ask for compensation by filing civil suit as disputed questions can not be decided in writ petition.

9. I have heard learned counsel for the parties and examined the available record.

10. The deceased Vidya Bhushan was stated to be 54 years of age. He has left behind his widow, who is housewife and a daughter of 18 years, studying in 12th class. There is no other earning member in the family.

11. According to the police report, the death had occurred because the stray bull hit Vidya Bhushan and as per the post-mortem report, deceased Vidya Bhushan suffered as many as 16 injuries. He had multiple rib fractures on both sides, which were pushed inside. The Court is, thus, satisfied that the death of Vidya

Bhushan has been triggered with the attack of stray bull. The earlier writ petition filed by the petitioner, was simply disposed of with a direction to the District Authorities to consider and decide the application of the petitioner for compensation but her application was dismissed by the Deputy Commissioner, Fatehgarh Sahib, who has admitted in his order dated 23.7.2015 that it is one of the duties of the Municipal Committee to take care of such stray animals but no provision is available in Municipal Act, 1911 to provide compensation to the family of the deceased if any such incident occurs. He also observed therein that grant of compensation to the family of the deceased in such cases is not covered under any rules or policies of the Government of Punjab. The provisions of the Chief Minister Relief Fund also do not cover such type of cases and no compensation can be provided to the family of the deceased by the Red Cross Society, Fatehgarh Sahib as the case is not covered under the norms of the society. Rather, it is observed that the deceased could have been compensated, had he taken any insurance to cover accidental death in such accidents. Except for expressing sympathy with the family of the deceased for the unfortunate and tragic accident, nothing else was given by the respondent-State to the petitioner in the name of compensation.

12. The Court would deal with this aspect in the later part but as regards question of compensation is concerned. In Shakuntala's case (supra), the deceased was a fruit vendor, carried on his trade from a roadside "Redi/Thela" (hand-cart). On the fateful day, he was selling fruits, when two fighting bulls came by and in the ensuing melee he fell, got entangled between the fighting bulls and was badly mauled. He was shifted to the hospital but finally succumbed to the injuries, which, as per postmortem report, were possible by assault of bull. Hon"ble Delhi High Court on the basis of the inquest report and post-mortem report, which established the case on facts that the death had occurred because of the attack by the bull, held the Municipal Corporation, Delhi negligent as it did not ensure proper supervision of the area, to avoid the menace of stray cattle by which such kind of accident could have been prevented, saving the life of a human being, held it liable to pay compensation to the tune of RS. 10 lacs.

13. In Parmeshwar's case (supra), deceased, who was 12 years of age, was sitting on the stairs near his residence when two wild undomesticated bulls appeared and began fighting. Though, the deceased tried to move towards his house to save himself but got entangled in the fight and was grievously hurt. He was taken to the hospital but at last succumbed to his injuries. The Court awarded RS. 7.57 lacs on account of death of boy aged 12 years because there was no denial to the factual incident.

14. In Parminderjit Kaur's case (supra), an Engineer working in Irrigation Department standing along with his friend outside his office, was hit by stray animal from the back and suffered grievous injury. He was taken to the hospital, where he was declared dead. The court had found that as per Section 182 (2) of

the Punjab Municipal Act, 1911, any animal found picketed, tethered or straying on any public street without the permission of the committee may be removed to a pound by any officer or servant of the committee or by a police officer. No such effort was made to take control of stray animal, who had taken life of a human being. Consequently, this Court awarded RS. 10 lacs with interest @ 9% from the date of filing of the petition till the date of payment leaving it open to the petitioner to approach the court for any sum in excess of what was assessed by this Court.

15. Facts of this case are not different from the facts of the cases, which have been relied upon by the petitioner because in all the three cases mentioned herein above, death had occurred due to the attack by a stray animal i.e bull and the inquest report and the post-mortem report both have proved without any doubt that the petitioner's husband had passed away only because of the injuries, suffered by the bull. The deceased had left behind his widow, who is a housewife and a daughter, who is studying and has to be got married also and there is no one to look after the family except the sole bread earner, who was a small financier and has been killed because of the negligence of the Municipal Committee, Fatehgarh Sahib.

16. Thus, in the facts and circumstances of this case, and taking into account the fact that it was/is the duty of respondent No.3 to keep public places free from the menace of stray animals and as a precious life has been lost, therefore, I am of the considered opinion that the Municipal Corporation (respondent No.3) should pay compensation of RS. 10 lacs to the petitioner with 9% interest from the date of filing of the petition till the date of realisation of the amount. It is ordered that the amount of compensation shall be paid by the Municipal Corporation/respondent No.3 within three months from the date of production of certified copy of this order. While departing, the State of Punjab is also directed to at least frame a Policy for compensating the persons, who suffers injuries or are killed by stray animals, roaming around on the streets, so that such like cases could be decided by the respondents themselves.

17. Petition stands allowed.