

(2023) 05 J&K CK 0005

In the Jammu And Kashmir High Court

Case No : Letters Patent Appeal No. 88 Of 2021, Civil Miscellaneous No. 6733 Of 2021

Union Territory Of J&K And Others

APPELLANT

Vs

Rani Gupta And Others

RESPONDENT

Date of Decision : 04-05-2023

Acts Referred:

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 304A

Citation : (2023) 05 J&K CK 0005

Hon'ble Judges : Tashi Rabstan, J;Puneet Gupta, J

Bench : Division Bench

Advocate : Amit Gupta, Prem Sadotra

Final Decision : Dismissed

Judgement

Tashi Rabstan, J

1. This Letters Patent Appeal is directed against the judgment dated 17.03.2021 passed by the learned Single Judge in OWP No.975/2008, whereby the learned Single Judge while allowing the petition, held that the writ petitioners are entitled to compensation of rupees ten lacs on account of death of one Vijay Kumar Gupta, i.e., husband writ petitioner No.1, father of writ petitioners 2 and 3 and son of writ petitioner No.4.

2. The facts, as gathered from the writ file, are that one Vijay Kumar Gupta, husband of writ petitioner No.1, a shopkeeper by profession, died on 01.09.2008 due to electrocution by high intensity electric line, which had fallen down on the pathway when he went to morning walk in the park alongside the bank of canal at Rajpura Chungi, Jammu. Accordingly, FIR No.139/2008 was registered at Police Station, Nowabad, Jammu under Section 304-A RPC against the concerned officials of Power Development Department. Writ petitioners filed OWP No.975/2008 seeking compensation from the writ respondents-appellants herein on account of negligence on the part of writ respondents.

3. The learned Single Judge while allowing the writ petition vide judgment dated 17.03.2021 held that the writ petitioners are entitled to rupees ten lacs. Feeling aggrieved, the appellants-writ respondents have filed the instant appeal.

4. Heard learned counsel appearing for the parties, considered their rival contentions and also perused the appeal file. Record of writ petition was also called from the Registry.

5. The stand of appellants-writ respondents is that the writ petitioners filed OWP No.975/2008 on 06.12.2008 seeking compensation and, if any consideration was required under the policy, the same was required to be dealt with in terms of Government Order No.328-PDD of 2011 dated 24.11.2011, whereby an ex-gratia relief of rupees three lacs had been allowed in case of death of a civilian due to electrocution. However, the learned Single Judge allowed rupees ten lacs as compensation in favour of writ petitioners while relying upon Government Order No.454-F of 2019 dated 24.10.2019, whereby an ex-gratia relief of rupees ten lacs has been allowed in case of death of a civilian due to electrocution. The further stand of appellants-writ respondents is that since the order dated 24.10.2019 (supra) does not have retrospective effect and the incident-in-question was of September, 2008; as such the learned Single Judge was wrong in allowing rupees ten lacs as compensation in favour of writ petitioner.

6. Admittedly, deceased Vijay Kumar Gupta is stated to be died on 01.09.2008 due to electrocution and the writ respondents in their objections have not disputed the same. The writ respondents in their objections to the writ petition have specifically admitted that deceased Vijay Kumar Gupta came into contact with the snapped conductor which was lying there on the pathway and the panel had failed to trip and that the lapse had also been verified by the Director, TTI & C; meaning thereby there was gross negligence on the part of officials/officers of Power Development Department which took away a precious human life, who may not be anything for the writ respondents or anyone else, but, certainly, he was a whole world for his family. Further, when the writ petition came to be decided by the learned Single Judge, Government Order No.454-F of 2019 dated 24.10.2019 had already been issued. Therefore, Government Order No.328-PDD of 2011 dated 24.11.2011 cannot be read in isolation, when order dated 24.10.2019 had already been issued.

7. Further, when the writ respondents failed to consider the claim of writ petitioners for grant of compensation on account of death of Vijay Kumar Gupta due to electrocution due to the negligence of officials/officers of Power Development Department, the writ petitioners had no option but to approach this Court. The writ petition came to be filed in the year 2008 and during the pendency of the petition the Government has issued Order No.454-F of 2019 dated 24.10.2019 enhancing the compensation in such cases from rupees three lacs to rupees ten lacs. The writ petitioners have been hankering for getting the compensation for the last more than fourteen years and, in these circumstances, the writ petitioners are entitled to the higher amount in terms of order dated

24.10.2019.

8. Further, the writ respondents perhaps have forgotten that the deceased at the time of his death was only 48 years old and was an income tax payee. Also, order dated 24.10.2019 is a beneficial order issued by the Government in larger public interest with an objective to provide dignified/sufficient monetary support to the families of such victims so as to save them from living a destitute life. Also, from the year 2008 to the year 2023 the inflation has been raised to many folds. Therefore, the learned Single Judge was right in allowing interest at the rate of 6% from the date of filing of this petition.

9. Viewed thus, while upholding the judgment of learned Single Judge, we do not find any merit in the appeal and the same is, accordingly, dismissed along with connected CM.