

Dhapu Devi Vs. JvvnI and ors.

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SooperKanoon Citation : sooperkanoon.com/762979

Court : Rajasthan

Decided On : Jul-29-2004

Reported in : I(2005)ACC232; RLW2005(1)Raj107; 2004(4)WLC491

Judge : K.S. Rathore, J.

Acts : Indian Penal Code (IPC) - Sections 304A and 337

Appeal No. : S.B. Civil Writ Petition No. 2969 of 2004

Appellant : Dhapu Devi

Respondent : JvvnI and ors.

Advocate for Def. : S.K. Sharma, Adv.

Advocate for Pet/Ap. : B.R. Rana, Adv.

Disposition : Writ petition allowed

Judgement :

K.S. Rathore, J.

1. The brief facts of the case are that Bhonri Lal son of the petitioner was working in the field on 1.9.2003. The employees of the electricity department were converting the LT line into HT line. At about 4.30 p.m. The employee of the respondents told that work has been completed and they are going to start the

line. At about 4.45 p.m., when Bhonri Lal and other farmers were working in the field then, suddenly due to puncture of the insulator in 11 KV electric line, electric current flew in the field and Bhonri Lal as well as other farmers, who were working in the field sustained heavy shock of electric current. Bhonri Lal died on the spot and other 9 persons were seriously injured.

2. The brother of the deceased, who is also injured, lodged the FIR No. 319/2003 at Police Station Bassi on 3.9.2003 for offence Under Section 304A and 337 IPC against the officials of the electricity department.

3. Learned counsel for the petitioner drawn my attention towards Annex. 2 whereby JVVNL has issued an order dated 12.4.2004 in its 40th meeting to grant Ex-Gratia amount and raised the existing limit of Rs. 20,000/- to Rs. 25,000/- on account of electrocution. The petitioner also applied for Ex- Gratia amount as the petitioner's son was died due to negligence of the officials of JVVNL. But it is denied as the Final Report is submitted in the FIR No. 319/2003 and the same is approved by the court of law. Therefore, they refused to grant Ex-Gratia amount to the petitioner.

4. Learned counsel for the petitioner further placed reliance in support of his submissions on the judgment rendered by Hon'ble Supreme Court M.P. Electricity Board v. Shail Kumari and Ors. (2002 (2) SCC 162), wherein the Hon'ble Supreme Court has held strict liability of State Electricity Board-Live wire getting snapped and falling on public road with was inundated with rainwater-Cyclist at night not noticing the wire, passing over the same and got electrocuted- In such circumstances, irrespective of any negligence or carelessness, State Electricity Board, held, liable to pay damages.

5. Heard rival submissions of the learned counsel for respective parties. Herein the instant case also the respondents' employees are converting LT line into HT line and during the course of conversion and without noticing and properly checking the electric current was allowed to pass through the converted line and on account of this negligence the petitioner's son was died on spot due to electrocution.

6. As per the circular dated 12.4.2002 it is clearly indicated in the order that the ex-gratia amount shall be sanctioned by the Circle SE for payment to the family of the deceased person or the owner of the deceased animal, as the case may be, only after having an Enquiry Report from an XEN, to the effect that the electrical accident which resulted into death of a person or animal was on account of electrocution from broken/defective electric lines/stay wires or poles or installations of Electricity Companies directly or indirectly attributable to negligence on the part of the employee of the Electricity Companies.

7. As observed herein above the electrocution was taken place on account of negligence committed by the respondents and the enquiry, which is conducted by the officers of the respondents does not support the application of the petitioner. But the accident occurred in the presence of officials immediately after they allowed the electric current flow from the changed line. This is obviously on account of the negligence on the part of the respondents.

8. In view of the facts and the circumstances of the case and as per the ratio decided by the Hon'ble Supreme Court in the case of M.P. Electricity Board v. Shail Kumari and Ors. (supra), it is fit case where the petitioner is entitled to get ex-gratia amount of Rs. 25,000/- as the son of the petitioner has died on spot due to electrocution.

9. Learned counsel for the respondents further submits that the petitioner has filed regular suit for damages, which is still pending.

10. This is not a case for damages as in the instant writ petition the petitioner is only asking for ex-gratia amount. In any case if the petitioner succeeds in the suit, the respondents can deduct the ex-gratia amount, which is paid to the petitioner.

11. In view of the aforesaid observations, the writ petition stands allowed and the respondents are directed to make the payment of ex-gratia amount to the tune of Rs. 25,000/- to the petitioner immediately.