

State Of H.P. And Ors vs Naval Kumar Alias Rohit Kumar on 2 February, 2017

Equivalent citations: AIR 2017 SUPREME COURT 718, 2017 AAC 563 (SC), AIR 2017 SC (CIVIL) 2351, (2017) 3 MPLJ 416, (2017) 2 UC 847, (2017) 2 PUN LR 568, (2017) 2 SCALE 136, (2017) 2 JCR 9 (SC), (2017) 121 ALL LR 444, (2017) 2 RAJ LW 1310, 2017 (3) SCC 115, (2017) 171 ALLINDCAS 126 (SC), (2017) 1 TAC 685, (2017) 1 ACJ 701, (2017) 1 ACC 400, (2017) 4 CIVLJ 124, (2017) 4 MAH LJ 640, (2017) 68 OCR 122, (2017) 1 RECCIVR 990, (2017) 1 CLR 491 (SC), (2017) 2 PUN LR 416, (2017) 1 WLC(SC)CVL 320, (2017) 4 CURCC 588, 2017 (2) KCCR SN 131 (SC), (2017) 2 BOM CR 532

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Bench: J. Chelameswar, Abhay Manohar Sapre

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 1339 OF 2017
(ARISING OUT OF SLP (C) No.9471/2015)

State of Himachal Pradesh
& Ors.

...Appellant(s)

VERSUS

Naval Kumar alias
Rohit Kumar

...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

- 1) Leave granted.
- 2) This appeal is filed against the final judgment and order dated

09.01.2015 passed by the High Court of Himachal Pradesh at Shimla in Civil Writ Petition No. 475 of 2013 whereby the High Court allowed the writ petition filed by the respondent herein and awarded the compensation of Rs.1,25,00,000/- under different heads for the injuries sustained by the respondent due to negligence of the State.

- 3) We herein set out the facts, in brief, to appreciate the issue involved in this appeal.
- 4) On 18.03.2012 at about 3.30 p.m., the respondent-Naval Kumar alias Rohit Kumar, who was 8 years old at the time of incident, accompanied his mother to the fields to collect "Saag" where he got electrocuted with a high tension live wire (11 KV) commonly known as Lahru-Chowari Line. He received grievous burn and other injuries and became unconscious. On the same day, FIR was registered at the instance of the mother of the respondent.
- 5) The respondent was initially taken to Referral Hospital Chowari for treatment. Thereafter he was referred to Dr. Rajendra Prasad Medical Hospital, Tanda, District Kangra, Himachal Pradesh. He was operated on 25.03.2012 and his both arms were amputated. He was admitted in Dr. Rajendra Prasad Medical Hospital, Tanda w.e.f. 18.03.2012 to 03.05.2012. The respondent suffered 100% disability. During the course of hospitalization, the family of the respondent had to incur expenses exceeding Rs.2,00,000/- including medicines, taxi charges, attendant charges, special diet charges etc. The respondent has now become totally dependent upon family members even for day-to-day activities for his entire life. The respondent was throughout brilliant student in his studies and had to discontinue his studies after this unfortunate incident.
- 6) The respondent, through his mother and natural guardian, namely, Smt. Lata Devi, filed writ petition being W.P. No. 475 of 2013 in the High Court against the appellants herein claiming a compensation of Rs.50,00,000/- under various heads and also stated that they have incurred Rs.2,00,000/- for medical expenses. The respondent also prayed for a direction to the authorities to install and maintain all the electricity wires, conductors, apparatus etc. strictly in accordance with the Electricity Act, Rules, Regulations etc. so that no such untoward incident would take place in the future.
- 7) The High Court, by impugned judgment dated 09.01.2015, allowed the writ petition filed by the respondent herein and awarded a compensation of Rs.1,25,00,000/- under different heads to the respondent.
- 8) Against the said judgment, the appellants have filed this appeal by way of special leave before this Court.
- 9) Heard Mr. J.S. Attri, learned senior counsel for the appellants and Mr. Nishant Ramakanrao Katneshwarkar, learned counsel for the respondent.
- 10) Learned counsel for the appellant-State of H.P. while assailing the legality and correctness of the impugned order urged that the High Court erred in awarding Rs.1,25,00,000/- to the respondent-claimant by way of compensation for the disabilities caused on account of electrocution suffered by the respondent. It was his submission that the award of compensation by the High Court is on much higher side with no material evidence on record in support thereof and further it is essentially based on assumptions and presumptions, which is not legally sustainable in law.

11) Learned counsel also contended that though the respondent unfortunately lost his both the arms thereby suffered 100% permanent disability for his whole life at such young age, yet having regard to several relevant factors governing the issue, the compensation awarded by the High Court appears to be on higher side and, hence, it deserves to be reduced so as to make it a reasonable one.

12) In reply, learned counsel for the respondent supported the impugned order and contended that it does not call for any interference. According to learned counsel, it is based on proper reasoning and being just and reasonable, therefore, does not call for any interference.

13) Having heard the learned counsel for the parties and on perusal of the record of the case, we find some force in the submissions urged by the learned counsel for the appellant- State and, hence, we are inclined to interfere in the impugned order and, in consequence, reduce the compensation awarded by the High Court to the extent indicated infra.

14) The short question that arises for consideration in this appeal is whether the High Court, in the facts and circumstances of the case, was justified in awarding Rs.1,25,00,000/- to the respondent by way of compensation for the injuries sustained by the respondent in an accident which occurred on 18.03.2012?

15) The High Court held and, in our view, rightly that the incident in question occurred due to negligence of the State and its authorities and hence the State was vicariously liable to compensate the respondent for the losses sustained by the respondent. It may be mentioned that the State rightly did not challenge this finding and hence we need not go into its correctness. The High Court further held and, in our view, rightly that having regard to the family background of the respondent and further respondent's excellent performance as a brilliant student in studies, he would have easily earned Rs.30,000/- per month in his life. We find no good ground to interfere in this finding of fact, which, in our opinion, is based on proper material on record.

16) The High Court, however, further awarded Rs.10,00,000/- towards loss of companionship, life amenities/pleasures, and happiness, Rs.10,00,000/- for pain and suffering, mental distress, trauma and discomfort and inconvenience, Rs.10,00,000/- towards attendant/nursing expenses, and lastly, Rs.5,00,000/- for securing artificial/robotic limbs and future medical expenses. In our considered view, the award of compensation under these 4 heads appears to be on very higher side and is not supported by any evidence. It is, in our view, based on assumptions and presumptions to which we do not concur. In our view, entitlement under these heads is one thing and the quantum of grant of compensation under these heads is another thing. In this case, as rightly urged by the learned counsel for the appellant-State that lump sum award of compensation under these heads is on higher side and is not supported by any evidence. It is, therefore, not legally sustainable.

17) In our considered view, taking into consideration the facts and circumstances of the case such as respondent's family background, his age (8 years), nature of permanent disability suffered by the respondent, his performance in studies, the determination of monthly/yearly income made by the High Court, expenses incurred and all the relevant factors, which are usually taken into account in awarding compensation to the victim, the respondent is held entitled for a total lump sum

compensation of Rs.90,00,000/- (Rs. Ninety lacs) together with interest payable at the rate of 6% p.a. in place of Rs.1,25,00,000/- awarded by the High Court.

18) The award of Rs.90,00,000/- together with interest payable at the rate of 6% p.a., in our view, would fetch sufficient regular monthly income to the respondent by way of interest alone, if the awarded sum is deposited in the Bank and would thus take care of respondent's upbringing and other needs for the rest of his life. The award of compensation determined by us is just and reasonable compensation payable to the respondent.

19) In view of foregoing discussion, the appeal succeeds and is allowed in part. The impugned order is modified to the extent indicated above by reducing the compensation awarded by the High Court.

20) In other words, the compensation awarded by the High Court is, accordingly, reduced from Rs.1,25,00,00/- to Rs.90,00,000/- with interest payable at the rate of 6% p.a. from the date of filing of the writ petition.

21) Let the appellant-State deposit the entire amount, as has been awarded by this Court, within 3 months from the date of receipt of the copy of this judgment in the High Court or pay to the respondent through his parents after proper verification.

.....J. [J. CHELAMESWAR]J. [ABHAY
MANOHAR SAPRE] New Delhi;

February 02, 2017
