

PETITIONER:  
SMT. SHAKUNTALA DEVI

Vs.

RESPONDENT:  
DELHI ELECTRIC SUPPLY UNDERTAKING & ORS.

DATE OF JUDGMENT 25/01/1995

BENCH:  
MAJMUDAR S.B. (J)  
BENCH:  
MAJMUDAR S.B. (J)  
MOHAN, S. (J)

CITATION:  
1995 SCC (2) 369                      JT 1995 (1)      547  
1995 SCALE (1) 318

ACT:

HEADNOTE:

JUDGMENT:

S.B. MAJMUDAR, J.:

1. This is a petition by the widow of deceased Ram Naresh Yadav under Article 32 of the Constitution of India against Delhi Electric Supply Undertaking, Life Insurance Corporation of India and M/s Fixwell Push-in-cords Pvt.Ltd., praying for appropriate directions against the respondents to award to the petitioner suitable compensation of Rs.5 lakhs on account of the death of her husband which according to her was caused by criminal negligence on the part of Respondent No. 1.

2. This is an unfortunate case in which a young and sole bread-winner of the petitioner's family was lost on account of a tragic accident in which he got electrocuted by a live wire of electricity which was being supplied at the spot by Respondent No. 1, undertaking. That left the petitioner a young widow and three small children destitutes. A few relevant facts leading to these proceedings may be noted at this stage. The deceased husband of the petitioner got employment as gardener in the organisation of Respondent No.3 which is situated at village, Dhundehara. The husband of the petitioner was staying at village Kapashera on the outskirts of New Delhi. The wife of the deceased alongwith her three children, namely, Anil Kumar (son) aged about 18 years, Anita Kumari (daughter) aged about 16 years and Sunita Kumari (daughter) aged about 9 years was staying in their village Atepur. The deceased was the only earning member in their family and was maintaining them.

3. The petitioner's husband got a policy of life insurance for an amount of Rs.25,000 and his life was insured against accidental death by Respondent No.2 Corporation. According to the petitioner her husband was regularly paying the insurance premia.

4. On 8th July, 1993 a live main electricity cable/wire which resting on a electricity pole at village Kapashera had got snapped and was lying in the rainy water logged in the

village. Various complaints were made by the residents of the village Kapashera to the officers of the Respondent No. 1 which was statutorily bound to maintain electric installation lines in proper condition. Local police was also informed regarding the disconnection of live wire resulting into leakage of electricity and threat to the lives of the people in their area.

5. According to the petitioner all these requests fell on deaf ears of Respondent No. 1 which did not take any action in this regard. In the evening when Ram Naresh Yadav was returning from the place of employment, when he was not aware of the electricity leakage, he came in contact with the live cable and got electrocuted on the spot And he died instantaneously. This according to the petitioner was on account of criminal negligence on the part of Respondent No. 1. As this disaster has left the petitioner and her young children destitutes, the present petition is moved under Article 32 of the Constitution presumably relying upon petitioner's fundamental rights under Article 21 of the Constitution which have got adversely affected

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on account of the negligent act of the officials of Respondent No. 1 herein. She has also claimed appropriate reliefs from Respondent No. 2. This petition was treated to have been admitted to final hearing. We have heard the learned Advocates for the parties in support of their respective cases. Having heard them we felt that it is a fit case for invoking our jurisdiction power under Article 142 of the Constitution of India for giving appropriate relief to the petitioner, a destitute widow of the deceased and her young/minor children. So far as Respondent No. 1 is concerned it is true that the question of negligence of officials of Respondent No. 1 can be properly examined in a suit where correct facts can be established but as that would involve long delay and the misery of the petitioner and her young children who were stranded in life would linger on we suggest to the learned counsel for Respondent No. 1 to give a reasonable amount ex gratia to the petitioner and her young children so that their misery can be to some extent lessened. We are happy to note that the learned counsel for Respondent No. 1 on instruction has left the matter to us. Similarly the learned counsel for Respondent No. 2, Sh. Negi has also gracefully left the matter to us. He however, submitted that if the insurance policy was a live policy, Respondent No. 2 would have been liable to make full insured amount of Rs. 25,000 but according to Respondent No. 2 Corporation, the policy has lapsed as the deceased has not paid premia for the last few instalments. He further frankly stated that Respondent No. 2 is not in a position to point out whether any written intimation was given to the deceased about non-payment of premia and the possible lapsing of policy. He also stated that though there was no statutory rule requiring such intimation to be given to the insured, as a matter of practice the Corporation used to issue such notices or intimations to the concerned insured so that they can clear of the unpaid premia instalments, But in the present case he was not in a position to produce a copy of any such notice issued to the deceased. So far as learned counsel for Respondent No. 3 ex-employer of the deceased is concerned, he stated that whatever was due to the deceased under the Workmen Compensation Act and as per the rules and regulations of the institution has already been paid to the petitioner. However, he fairly stated that he will have no objection in giving compassionate appointment to the

petitioner's son, Anil Kumar who is now a major if he makes an appropriate application in this connection to the Respondent No. 3. The Respondent No. 3 will see to it that such employment on compassionate ground is given to the petitioner's son Anil Kumar according to his suitability and educational qualifications and appropriate job will be given to him latest within six months from today. Under these circumstances interest of justice will be served by our directing Respondent No. 1 to pay an ex gratia amount of Rs. 75,000/- to the petitioner for the benefit of her self and her children Anil Kumar aged 18 years and two minor daughters Anita Kumari and Sunita Kumari. Similarly, we direct Respondent No. 2, Life Insurance Corporation to pay ex gratia amount of Rs. 25,000/- which would cover the full amount of life insurance policy of the deceased without going into the wider question whether the policy had lapsed or not on account of non-payment of premia. We also direct Respondent No. 3 to give compassionate employment suitable to the qualification of petitioner's son Anil Kumar. For that pur-

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pose, Anil Kumar shall make an application to Respondent No. 3 at the earliest and on receipt of the said application Respondent No. 3 will give suitable employment to him at the earliest but not later than six months from the date on which such application is received by Respondent No. 3. The disbursement of the above said total amount of Rs. 1.00 lakh to the petitioner and her young children will be made as under:-

Respondent No. 2 shall directly pay to the petitioner Rs. 25,000/- by bank draft drawn in her favour. So far as Respondent No. 1 is concerned it shall deposit Rs. 75,000/- in this Court out of which Rs. 25,000/- will be deposited in fixed deposit by the Registrar General of this Court in the name of the petitioner for a period of 10 years in any nationalised bank and the remaining Rs. 50,000/- will be invested in fixed deposits in the name of the concerned minor through her guardian, the petitioner till they attain majority. Rs.25,000/- out of the said amount of Rs. 50,000/will be deposited in the name of minor child Anita Kumari, while the remaining Rs. 25,000/- will be deposited in the name minor child Sunita Kumari both through their guardian, petitioner. Out of the invested amounts interest accruing due shall be made payable to the petitioner as well as her minor children at the end of each quarter for their maintenance. The aforesaid amount shall be paid/deposited by the concerned respondents within a period of four weeks from today. Subject to these directions to the respondents this petition is disposed of This judgment is rendered on the peculiar facts of this case and will not be treated as a precedent in any other matter. There will be no order as to costs in the facts and circumstances of the case.

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