



**HIGH COURT OF JAMMU & KASHMIR AND
LADAKH
AT JAMMU**

OWP No. 1337/2013

IA No. 1840/2013

Reserved on:- 12.02.2026

Pronounced on:- 03.03.2026

Uploaded on :- 03.03.2026

*Whether the operative part or
full judgment is pronounced: Full*

Sham Lal

S/O Sh. Gian Chand

R/O Village Daruie

Tehsil and District Samba.

.....Petitioner

Through: Mr. Sheikh Altaf Hussain, Adv

vs

1. **State of Jammu & Kashmir**, through
Commissioner-Secretary,
Power Development Department,
Civil Secretariat, Jammu.
2. **The Chief Engineer (M&RE), Jammu**
3. **The Executive Engineer, (M & RE) Division,
Samba**

..... Respondent(s)

Through: Mr. Raman Sharma, AAG with
Ms. Jagmeet Kour, Adv

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 103 of the Constitution of Jammu & Kashmir, seeking indulgence of this Court for issuance of appropriate writ of mandamus, directing the respondents to pay compensation to the tune of Rs. 71,06,672/-, along with interest @ 9 % per annum from the date of filing of writ petition till the date of realization in favour of the petitioner, on account of 100 % permanent disability suffered by the petitioner, due to his electrocution on 06.09.2012, because of the negligence of the respondents.



2. Briefly stated, the case of the petitioner is that on 06.09.2012 at about 12:30 p.m., while he was present at his shop at Daruie, the local PDD Lineman, namely Bishamber Dass, approached him and requested his assistance in removing a dead bird from a high-tension electric wire; that the petitioner initially declined, but upon the Lineman expressing his inability to do the work, due to a wrist fracture and assuring that the power supply had been disconnected, the petitioner agreed and climbed a ladder to remove the bird. However, on touching the angle attached to the pole, he found the line to be live, received electric shock and sustained severe burn injuries on both hands; that the petitioner was thrown off due to the electric shock and suffered serious injuries. In this regard, FIR No. 172/2012 dated 06.09.2012 under Sections 287/337 RPC came to be registered at Police Station Samba, and upon completion of investigation, a challan under Sections 287/338 RPC was presented before the Court of the Chief Judicial Magistrate, Samba, against Lineman Bishamber Dass.

3. It is further pleaded that immediately after the accident, the petitioner was taken to the District Hospital, Samba, from where on 06.09.2012, he was referred to Government Medical College Hospital, Jammu, where he was admitted as a case of electric burns involving both hands and forearms. It is stated that despite treatment, his condition deteriorated and he was subsequently shifted to Hargun Hospital Amritsar, under the care of Dr. Gurvinder Singh, where he developed multi-organ complications, was placed on mechanical ventilation, and received treatment for associated ailments; that owing to the high cost of treatment, the petitioner sought discharge from the said hospital on 20.09.2012 and, on the following day i.e. 21.09.2012, was again admitted to Government Medical College Hospital, Jammu. He was discharged on 01.10.2012, however, due to deterioration in his condition, he was readmitted there on 04.10.2012 and was



finally discharged on 25.10.2012, after which he continued to remain under follow-up treatment; that during treatment both of his forearms were amputated rendering him permanently disabled.

4. It is lastly pleaded by the petitioner that he incurred medical expenses exceeding Rs. 5,00,000/- on treatment and doctors' consultation, however, only a limited number of medical bills and vouchers could be preserved by his attendants; that the doctors at Government Medical College Hospital, Jammu referred him to the Artificial Limb Centre for prosthetic management, where the estimated cost of the procedure was stated to be Rs. 4,96,400/-.

5. Learned counsel for the petitioner argued that petitioner, as per the disability certificate issued by a Board of Doctors (BoD) had suffered 100% permanent disability; that he has lost monthly income of Rs.10,000/- which he used to earn from his welding unit as a trained/skilled welder; that he has already incurred expenditure on his treatment and also requires prosthetic aids of artificial limbs and prayed that he be awarded just and fair compensation for electrocution. In support of his contentions, learned counsel for the petitioner placed reliance of the decisions rendered by the Apex Court in the cases 'Syad Akbar V. State of Karnataka' reported as **AIR 1979 SC 1848**, and '*M.P. Electricity Board V. Shail Kumar & Ors.*' reported as **AIR 2002 SC 551**, Civil Appeal Nos. 5373-5375 of 2013 titled '*Rekha Jain & Anr. V. National Insurance Co. Ltd.*' Decided on 01.08.2013, '*Smt. Supe Devi V. National Insurance Co. Ltd.*' reported as **AIR Online 2002 SC 205**, Civil Appeal No.8981/2010 titled '*Raj Kumar V. Ajay Kumar & anr.*' decided on 18.10.2010, and judgment of this High Court in LPAOW No. 34/2007 c/w LPAOW Nos. 58 & 60/2008 titled '*Joginder Singh V. State of J&K & Ors*' decided on 24.03.2011, OWP No. 811/2012 titled '*Sonia Devi @ Sonia V. State of J&K & Ors.*' decided on 04.10.2023, OWP No.



357/2011 titled '*Hanifa Bano & Ors. V. State of J&K & Ors.*' decided on 06.12.2012.

6. Pursuant to the notice, the respondents filed objections contending that the writ petition is not maintainable as no fundamental, statutory, or legal right of the petitioner has been violated. It is submitted that the respondents were not negligent and that the injuries were the result of the petitioner's own acts of omission and commission, as also indicated in the explanation furnished by the concerned Lineman during the departmental enquiry, who in his written reply submitted that on 06.09.2012 one bird was entangled on H.T Line at village Durie, Tehsil and District Samba, due to which the Line developed Electric fault and further replied that he had gone for taking, a rod for putting down the caught bird, however, in the meantime, the petitioner who was running a welding shop with illegal connection at Village Durie climbed on the High Tension Pole and due to electric shock fell down from the Pole and received injuries. The alleged disablement of the petitioner was not on account of any negligence of the department but on account of his own acts of omission, commission and negligence, as such, the writ petition is liable to be dismissed.

7. Learned State Counsel while reiterating the stand taken by the respondents, that the petitioner based his claim for compensation on account of having been authorized by Lineman Bishamber Dass to climb on the HT Pole to remove entangled bird and in helping him repair the High Tension Electric Line, which has been categorically denied by Lineman in reply submitted by him to Department, the petitioner having not arrayed Lineman as party respondent, the writ petition which is otherwise based on disputed question of facts is further not maintainable, for non-joinder of the necessary party. It is submitted that vide Government Order No/328-PDD of 2011 dated 24.11.2011, a scheme has been



formulated by the Government for providing ex- gratia relief to the Departmental and Non-Departmental persons who are killed/grievously incapacitated due to electric related accidents. As per the coverage under the scheme, it has been provided in the said Government Order that the scheme shall be applicable to the an employee of the PDD who is killed or rendered incapacitated wholly or partially, during the course of discharging of his *bona fide* and legitimate duties, Civilians killed or injured resulting in their partial or total disability subject to the explicit condition that the accident is not attributable to them but to the lapses, if any, attributable to the department .It is further submitted that as per the scheme of the above referred Government Order, the ex-gratia relief in case of loss of human life has been fixed at sum of Rs. 3.00 lacs, in case of total disability Rs. 1.00 lacs and in case of partial disability Rs. 30,000/-. As such, the petitioner in present case was himself negligent and responsible for the injury suffered by him on account of electrocution, he is not entitled to even ex-gratia relief, in view of the clear mandate of the above referred Government Order.

8. It is submitted that any person voluntarily climbing high tension poles is likely to suffer electric shock, the respondents having not authorized or granted any permission to the petitioner to climb high tension pole and for his own acts of climbing high tension poles and allegedly suffered injuries and amputation of his hands, he cannot seek imposing of any liability on the respondents; that the injuries suffered by the petitioner cannot be attributed to the negligence of the respondents, but the injuries resulting amputations suffered by the petitioner are purely on account of his own negligence, for which the petitioner cannot claim compensation from the respondents. In support of his contentions, learned counsel for the respondents placed reliance on decision of Hon'ble the Apex Court in the case of '*Chairman, Grid Corporation of Orissa Ltd. V. Smt. Sukamani Dass*'



reported as (1999) 7 SCC 298 and 'S.D.O. Grid Corporation of Orissa Ltd. & Ors. V. Timudu Oram' reported as (2005) 6 SCC 156.

9. Heard learned counsel for the parties and perused the material on record.

10. The facts that emerge from the pleadings of the parties are that petitioner, who had a welding unit, in presence of PDD Lineman Bishamber Dass climbed a HT Line pole to remove a stuck bird in the line, by which line had developed fault; that he received electric shock and burn injuries on his forearms, resulting into amputation of both of his hands, rendering him permanently disabled. The medical Board certified him as 100% disabled.

11. The case of the petitioner is that the injuries and resulting disability were caused due to the negligence of the respondents, inasmuch as the Lineman permitted him to climb the electric pole without ensuring proper disconnection of the power supply. On this basis, the petitioner claims compensation to the tune of Rs. 71,06,672/- from respondent Nos. 1 to 3 on account of their alleged negligence.

12. The petitioner, in support of his case placed on record copies of Diploma in Welding from ITI, FIR, chargesheet, disability certificate, treatment/medicines expenditure bills etc. The permanent disability caused to him in the form of amputation of his both hands was due to electrocution on 06.09.2012 at Village Daruie, alleging that the Lineman Bishambar Dass had asked him to climb a pole to remove a bird entangled in the electric lines assuring him that power had been switched off, however, when he climbed the pole, he received a shock as power supply had not been snapped and he received electric burn injuries on both of his hands, he was thrown off and suffered serious injuries and that later on due to injuries sustained, both of his hands had to be amputated and, as such, he suffered permanent disablement. In connection with the incident wherein the petitioner had



received injuries, a case was registered at P/S Samba vide FIR No. 172/2012 under Sections 287/337 RPC on 06.09.2012 and after investigation of the case, a chargesheet was laid against Lineman Bishambar Dass in the court of law for commission of offences punishable under Sections 287/338 RPC; the Board of Doctors of District Samba had certified him to have suffered 100% permanent disability. These are the facts which have not been denied by the respondents.

13. The respondents, however, raised a plea that the petition under Article 226 of the Constitution of India is not maintainable in view of disputed questions of facts stating that the petitioner had an alternate remedy of filing a civil suit, as such, the writ jurisdiction was barred. It has also been the case of the respondents that the petitioner had, on his own, climbed the HT pole without any authorization and this voluntary act on his part does not fix the negligence on the part of the respondents to make them liable to pay compensation; and that the petitioner was not even entitled to ex gratia relief in terms of Govt. Order No. 328-PDD of 2011 dated 24.11.2011.

14. The plea, with regard to non maintainability of the petition is misplaced, in view of law laid down by this court in cases of '*Executive Engineer & Ors. V. Mohd. Ashraf Bhat & Ors.*', reported as **AIR 1999 J&K 137** and '*Syad Akbar V. State of Karnataka*' reported at **AIR 1979 SC 1848**, wherein it has been held that the High Court has jurisdiction to entertain such petition and that under the doctrine of *res ipsa loquitur* negligence is presumed when the instrument causing damage was under the control of the respondents.

15. So far as the negligence is concerned, this does not remain disputed question of fact in view of fact that a criminal case was registered for negligence and a charge sheet for this offence was also laid before the court of law against Lineman Bishambar Dass. The respondents have not denied these facts. The



respondents have not even denied the presence of Lineman on spot and even if it is assumed that the petitioner had voluntarily climbed the pole but the same admittedly was in the presence of Lineman Bishambar Dass, who had not objected to it or restrained the petitioner from climbing the HT pole. In this view of the matter, under the doctrine of *res ipsa loquitur* negligence is proved, particularly, on the basis of the FIR registered at the local police station and the charge sheet arising out of it laid in the court for the negligence and causing injuries to the petitioner by Lineman Bishambar Dass. There is, thus, sufficient material on record to hold that the petitioner had suffered injuries resulting into his permanent disablement due to negligence of Lineman Bishambar Dass an official functionary of the respondent-PDD, for whose negligence, all the respondents are vicariously liable to pay compensation in torts.

16. The petitioner had been certified by the Board of Doctors to have suffered 100% physical disability. The petitioner, thus, cannot do the work of welding which he had been doing before the accident took place and keeping in view that the petitioner had lost both of his hands in the unfortunate accident of electrocution, he can be stated to have suffered 100% functional disability and the loss of future income as well. This Court in a catena of judgments following the Apex Court judgments has held that while granting compensation in electrocution, principles under the Motor Vehicles Act can be adopted.

17. The petitioner has placed on record his qualification certificates including Diploma in Welding issued by the Directorate of Technical Education, Govt. of Jammu & Kashmir from ITI, Hiranagar, in the year 2003 and pleaded that he had an average monthly income of Rs.10,000/- from his welding shop. The electrocution of the petitioner had taken place on 06.09.2012. The income as pleaded by the petitioner in the year 2012 without any documentary or other proof



cannot be accepted at Rs.10,000/-, however, the petitioner, having Diploma in Welding, can be stated to be a skilled person and the income which may have been notified in the year 2012 under the Minimum Wages Act by the Government of Jammu & Kashmir, can be accepted as income of the petitioner. As per the Notification SRO 61 of 2012 dated 09.02.2012 issued by the Labour Department of the Govt. of J&K, the minimum monthly wages of a skilled worker was Rs.6000/-. The disability, however, as certified by the Board of Doctors and having regard to the amputation of both the hands, the petitioner can be stated to have suffered 100% functional disability resulting into equal loss of income.

With monthly loss of income of Rs.6,000/-, the annual loss of income comes to (6000 x 12) Rs. 72000. This income, having regard to the future prospects of increase in income has to be stepped up by **40%**, in view of law laid down by the Apex Court in case '*National Insurance Company Ltd. V. Pranay Sethi & Ors*', (2017) 16 SCC 680. With this addition, the annual loss of future income has to be worked out as (72,000 +28,800) Rs.1,00,800/-. Having regard to the age of the petitioner as on date of electrocution, as **34** years, the appropriate multiplier to be applied shall be **16** for determination of total loss of income. With applicability of **16** as multiplier, total loss of income suffered by the petitioner would be (1,00,800 x 16) **Rs.16,12,800/-**

18. Petitioner has placed on record bills of expenditure on medicines/treatment amounting to Rs.1,08,272.00 and the estimated costs on each of the artificial limbs of Rs.4,96,900/-, with replacement after 10 years, as such, requirement of three pairs, whose costs comes to **Rs.29,78,400/-**.

19. Viewed thus, the petition is allowed and the petitioner is entitled to the following amounts payable by the respondents for their vicarious liability.



S. No.	Particulars	Amount (in Rs.)
1.	Loss of Future Income	= Rs.16,12,800/-
2	Medical Expenses as per the vouchers	= Rs.1,08,272/-
3.	Cost of Artificial limb = Rs.4,96,400/- As the maximum life of one artificial limb is only 10 years, so taking the life span of petitioner as 65 years, the petitioner is required to buy the artificial limb thrice. Hence cost of six artificial limb (three pairs) = 4,96,400 x 6 = Rs.29,78,400	= Rs.29,78,400/-
4.	Attendant charges hired by the petitioner	= Rs.1,00,000/-
5.	Expenses on transportation, special diet etc.	= Rs.50,000/-
6.	Damages on account of pain & Suffering	= Rs.3,00,000/-
7.	Damages on account of loss of amenities of life	= Rs.3,00,000/-
	Total	= Rs.54,49,472/-

20. Having regard to the discussion made hereinabove and the foregoing reasons, this Court is of the considered view that petitioner is found entitled to a compensation of Rs.54,49,472/- (rounded of to Rs.54,49,500/-) payable jointly and severally by the respondents, for the disability caused to him in the electric accident, caused due to negligence of the Lineman Bishamber Dass. The writ petition is, thus, allowed holding petitioner entitled to receive a total compensation of Rs.54,49,500/- along with simple interest @9 % P.A., with effect from the date of filing of this petition i.e. 23.09.2013, till realization of the amount.

21. The writ petition is thus disposed of as allowed, accordingly, along with pending application(s).

(M A CHOWDHARY)
JUDGE

Jammu
03.03.2026.
Raj Kumar

Whether the order is speaking?: Yes/No.
Whether the order is reportable?: Yes/No.