



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-6524-2022

Date of decision:-30.07.2025

Sunita Devi and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.C. Shahpuri, Advocate
for the petitioners.

Mr. Aakash Singla, Addl. A.G., Haryana.

SUVIR SEHGAL, J.(ORAL)

1. Instant petition has been filed, *inter alia*, for issuance of a writ in the nature of certiorari for quashing office order dated 19.10.2021, Annexure P13, passed by the Divisional Forest Officer, Yamunanagar, whereby petitioners' claim for grant of compensation has been rejected while deciding their legal notice. Petitioners have further sought issuance of a writ directing the respondents to pay adequate compensation on account of death of their son, Vishal, as a result of fatal injuries due to a road accident.

2. Facts, in a nutshell, are that Vishal, a 23 old young man was doing internship with Hero Moto Corp. Ltd., Gurugram. He came to his native village on the eve of Diwali. Early in the morning on 17.11.2020,



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he was travelling on his motorcycle, which struck a eucalyptus tree, which had fallen on the road. He received multiple injuries and died on the spot. Postmortem examination was conducted at Civil Hospital, Jagadhri. An FIR No.173 dated 17.11.2020, was lodged under Section 304-A IPC, Annexure P5. Petitioners served a legal notice dated 11.01.2021, Annexure P11 upon the respondents claiming Rs.1 crore as compensation on account of negligence. They approached this Court by filing a writ petition, which was disposed of on 19.07.2021, Annexure P12, with a direction to the competent authority to consider and decide the legal notice. In deference to the direction passed by this Court, Divisional Forest Officer, Yamunanagar passed the impugned order, Annexure P13, rejecting the claim.

3. Counsel for the petitioners states that the eucalyptus tree fell on a public road during the night intervening 16/17.11.2020 due to heavy storm and despite being informed, the Forest Guard did not take any steps to remove it. Counsel asserts that due to sheer negligence on the part of the respondents, two-wheeler driven by petitioners' son struck the fallen tree and he suffered injuries leading to his death. Referring to the FIR and newspaper report, Annexures P5 and P6, respectively, counsel emphasis that the negligence of the respondents stands established and they are liable to compensate the petitioners for loss of a precious human life. He has placed reliance upon *Municipal Corporation of Delhi Versus Shushila Devi (1999) 4 SCC 317* and *Seema Versus State of Maharashtra and others, 2006 (4) RCR (Civil) 158.*



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4. Petition has been contested by the respondents, who have filed separate written statements. While disputing negligence, contesting respondents have taken a stand that the incident occurred due to act of God and no negligence can be attributed to the officials of the Forest Department.

5. State counsel has argued on the basis of the stand taken in the written statement and has made a reference to the impugned order to submit that there are disputed questions of facts, which cannot be gone into in a writ petition.

6. I have heard counsel for the parties and considered their respective submissions besides examining the paper-book.

7. There is no dispute about the unfortunate incident in which a young man has lost his life. It transpires that there was a storm during the night intervening 16/17.11.2020 and a eucalyptus tree growing on the forest land fell on the road. Vishal, who was travelling on a motorcycle did not notice the tree and struck against it. As per Post Mortem Report, Annexure P4, he received a brain injury leading to his death.

8. The questions to be determined in this writ petition are whether any negligence can be attributed to officials of Forest Department and as to whether they had failed to act with promptitude in removing the fallen tree from the road. Petitioners have referred to the FIR and newspaper cutting to allege that there was carelessness on the part of the Forest Department. FIR has been lodged by Kuldeep Singh,



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cousin of the deceased, alleging that Beat Guard of the Forest Department was remiss in performance of his duty as he neither removed the fallen tree nor did he installed any reflector to warn the motorists. No doubt, after completion of investigation, a challan has been presented against the Forest Guard and he is facing trial in a criminal case, but that in itself *per se* would not lead to the inference of negligence on his part. Newspaper cutting is a report of the accident and cannot be considered as a proof of dereliction of duty. Documents relied upon by the petitioners cannot conclusively lead to a conclusion that there was any laxity on the part of the Forest Department or any of its officials. Till the time the petitioners are not able to establish, by leading evidence that the officials of the Forest Department were informed or were aware about a fallen tree on a public road and they refused to act, petitioners cannot succeed. For this purpose, petitioners have to file a suit for damages and lead evidence. On the basis of documents appended with the instant petition, writ Court is not in a position to record any finding regarding negligence.

9. Judgments relied upon by the counsel for the petitioners would not come to their aid. In *Shushila Devi's* case (supra), Hon'ble Supreme Court was dealing with a petition, which had arisen out of a suit for damages. Claimants had led evidence in the shape of testimony of a Botany Professor as an expert witness, who testified that the tree had no bark and it was dried up and dying. The Court came to the conclusion that the tree was dead, dried and dangerous and it was the



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duty of the Corporation to carry out periodical inspection of the trees and to remove them. In a writ petition, High Court of Bombay in *Seema's* case (supra) found the administration to be negligent as despite repeated representations, they had failed in their duty of taking care of keeping the premises safe. However, such evidence is lacking in the present case. In the absence of any clinching evidence, this Court is unable to arrive at the finding of negligence on the part of respondents and is of the opinion that it should be left to the petitioners to approach the Civil Court to lead ocular and documentary evidence to prove their claim.

10. For the foregoing reasons, writ petition is disposed of.

11. Liberty is granted to the petitioners to take recourse to the remedies as are available to them in accordance with law.

12. As a matter of abundant precaution, it is clarified that any comment made hereinabove shall not be taken to be an observation on the merits of the case, which shall be determined by the competent Court in case the petitioners chose to take recourse to the remedy available to them.

30.07.2025
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No