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

**CWP No.8618 of 2015 (O&M)
Date of decision:17.04.2018**

Bhupinder Kaur and another ...Petitioners

Versus

Chandigarh Municipal Corporation ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Ekta Thakur, Advocate,
for the petitioners.

Mr. Ashish Rawal, Advocate,
for respondents no.1.

Mr. Suvir Sehgal, Senior Advocate, with
Mr. Akshay Sethi, Advocate, and
Ms. Deepali Puri, Advocate, for respondent no.2.

Rakesh Kumar Jain, J.

The petitioners are the unfortunate parents of late Amarjeet Singh Bhola, born on 27.03.1998, who succumbed to his injuries on 04.04.2015 caused by a monkey who had thrown a big stone/concrete slab on the head of the deceased. The petitioners have prayed for a writ in the nature of *mandamus* for seeking a direction to the respondents for grant of compensation on account of death of their son.

In brief, the petitioners have alleged that their son Amarjeet Singh Bhola was working as a salesman in SCO No.2414, Sector 22-C, Chandigarh. On 31.03.2015, at about 5.00 p.m., when he was standing on the backside of the said SCO, the monkeys sitting on the roof of the said SCO threw a big stone/concrete slab, which fell on the head of Amarjeet Singh Bhola causing a

severe injury to him. He was immediately rushed to the PGIMER, Chandigarh, where he remained under treatment for about 3 days and ultimately died on 04.04.2015. After his death, a DDR No.38 dated 04.04.2015 was registered in which the alleged incident was recorded. The same incident was also mentioned in the information supplied by the police to the PGIMER, Chandigarh to the effect that *“alleged history of fall of a stone on the head of the deceased from a height where monkeys were present, on 31.03.2015 at about 5.00 pm on the bank side of SCO No.2414, Sector 22-C, Chandigarh, where he was packing clothes. He was rushed to PGI, Chandigarh”*. The cause of death has also been given by the PGI as *“craniocerebral damage which is sufficient to cause death in the ordinary course of nature”* and observations have also been made about the scalp, skull, meninges and vessels and brain, which are as under:-

Sr. No.	Component	Remarks
1	Cranium & spinal cord (brain must be exposed in every case, spinal cord need not to be examined except in case of injury to vertebral column/spinal cord)	
	Scalp	Subaponeurotic hemorrhage present over the whole of the scalp
	Skull	Depressed fracture of right parietal bone is present underneath the injury described
	Meninges and Vessels	As described
	Brain	The right parietal region is lacerated and contused at the corresponding site of injury. There is presence of subdural hemorrhage involving the whole of right parietal and temporal lobes. The base of brain contains about 90 cc of fluid and clotted blood present.

The petitioners have claimed that their son Amarjeet Singh Bhola had expired due to negligence of the Chandigarh Municipal Corporation who has failed to control the monkey's menace in the city. It is also submitted that it may be sound to be a bizarre incident but it actually happened as the monkeys were sitting on the roof of SCO No.2414, Sector 22C, Chandigarh

while his son was standing under it and had suffered the injury on his head because of the stone/slab thrown by the monkeys.

After notice, the respondents have filed their reply in which they had alleged that the monkey is a scheduled animal which is protected under the Wildlife (Protection) Act, 1972 and the Forest Department cannot kill it or cause damage to it while dealing its menace. It is also averred that the Chandigarh Administration is striving hard to control the monkey menace but one of the major reasons for monkeys straying into the city area is the availability of food by the residents and in spite of several publicity and awareness measures taken by the Chandigarh Administration, food is being made available thereby attracting monkeys to stray in the city area. Further the Chandigarh Administration has made the following averments:-

- “(a) with a view to tackle the problem, a team of the Wildlife Wing of the forest Department, UT, Chandigarh responds quickly to any complaint from a particular area. The staff of Wildlife Wing of the department is also keeping a vigil eye by patrolling day/night. The Wildlife Wing is connected to Hotline No.-0172-4639999 whereby any resident can inform the monkey problem. The phone numbers of Wildlife officers and staff is displayed at website and has been advertised several times so that people of Chandigarh can call them over phone at any time.
- (b) To protect the residents of the City from the onslaught of monkeys menace, the Wildlife Wing of the Forest Department remains actively engaged with the problem and attends to specific complaints received by it swiftly on 24X7 basis.
- (c) The department has specially designed cages to capture wild animals including monkeys which stray into the residential areas. The capturing operations are carried out meticulously. However, the captured monkeys have to be left again in the Sukhna Wildlife Sanctuary area as there is

no other place for their rehabilitation.”

The Chandigarh Municipal Corporation has, however, tried to deny their liability on the ground that there is no witness to the incident. It is also averred that the post mortem does not support that the cause of death was due to a stone thrown by monkey. It is also submitted that it is not a case of monkey bite and is a case where the injury has allegedly been suffered by the deceased from a stone fallen from the height, which cannot be attributed to the monkey and to the negligence of the respondents.

During the pendency of the present petition, the petitioner filed an application to implead the Forest and Wildlife Department, Chandigarh as a party respondent through its Conservator. The said application was allowed on 12.05.2016 and, thereafter, reply was filed on its behalf in which respondents no.2 has averred as under:-

“1. That the said petition is fixed for hearing before this Hon'ble Court on 3rd October, 2017 for submission of steps taken/contemplated to curb the menace of monkeys crowded in the localities of Chandigarh.

2. That the monkey menace is not only experienced in UT Chandigarh but it is prevalent in entire country including neighbouring State of Himachal Pradesh. Originally, monkeys are supposed to live in forest area but due to degradation of forest area, monkeys are venturing into the semi urban/urban areas. Further their stay in semi urban/urban area is further facilitated by residents by providing them food in the nature of religious belief also. It has also been observed that in case of UT, Chandigarh monkey menace is mostly in the Northern Sectors adjoining forest area and in places like Punjab University, PGI, Sector 26, religious places, Dhabas in Sectors 27 and 28 where food is being made available to monkeys inspite of various publicity and awareness campaign being taken by Chandigarh Administration through print and news media, food is still being made available to monkeys and

therefore, even if they are driven away from the city area by the Forest & Wildlife Department officials and chances of their coming back is not ruled out.

3. Monkeys are covered under Schedule-II of Wildlife (Protection) Act and hence are to be protected. Forest and Wildlife Department cannot kill, injure or damage it but to drive away only from city area.

4. That following steps are being taken/contemplated by the Department of Forests and Wildlife, Chandigarh Administration to curb the menace of monkeys crowded in the localities :-

(a) With a view to tackle the problem, a team of the Wildlife Wing of the Forest Department, UT, Chandigarh has been formed who responds quickly to any complaint from a particular area. The staff of Wildlife Wing of the Department is also keeping a vigil eye by patrolling day/night. The Wildlife Wing is connected to a special dedicated landline No.0172-2700217 whereby any resident can inform the monkey problem. The phone numbers of Wildlife officers and staff is displayed at website and has been advertised several times so that people of Chandigarh can call them over phone at any time.

(b) To protect the residents of the City from the onslaught of monkeys menace, the Wildlife Wing of the Forest Department remains actively engaged with the problem and attends to specific complaints received by it swiftly on 24X7 basis.

(c) The Department has specially designed cages to capture wild animals including monkeys which stray into the residential areas. The capturing operations are carried out meticulously. The captured monkeys are released in Sukhna Wildlife Sanctuary area.

(d) Forests and Wildlife Department has been circulating pamphlets to the general public particularly Resident Welfare Associations, mentioning '**How to deal with Monkeys**'. This helps in educating the people about the monkey and its behavior, copy of the pamphlet is attached herewith as Annexure R-1.

- (e) Forests and Wildlife Department has been advertising the Public Notices for Monkey Menace in leading newspapers to the general public of UT Chandigarh that to avoid any inconvenience to the residents in case of monkey menace in the city, they can contact on the aforesaid given contact numbers. Copy of the Public Notice is attached herewith as Annexure R-II.
- (f) After receipt of complaint from any household or individual, cages are placed at or near the house frequented by the monkeys to trap the monkey. Though cages are put up to trap the monkey.
- (g) After receipt of complaint from an individual or a household, the Wildlife staff used to rush to the spot and chase out the troublesome monkey.
- (h) In extreme cases if a monkey is biting the people repeatedly, such monkey is identified, tranquilized, caught and sterilized and then released in the forest.
- (i) Injured monkeys are handed over to People for Animals or Veterinary Hospital and after treatment they are released in the Sanctuary area.
- (j) Department of Forests and Wildlife, UT, Chandigarh has now started planting fruit bearing trees in forests area so as to make more food available to monkeys. The details of plantation of fruit bearing species done in a compact patch during last few years, is as under :-

<i>Year</i>	<i>No. of Plants</i>	<i>Size of Plot/ Area (in Hectares)</i>	<i>Location</i>
2011-12	8000	20	Village Kaimbwala in Lake Beat (50 acre land)
2013-14	1200	03	Barotiwala Beat and Patiala-kir-Rao Beat
	400	1	Behind Dariya Forest Guest House
2014-15	400	1	Barotiwala Beat
	400	2	Natehwala and Sector 26
	400		
2015-16	800	2	Barotiwala Beat and Patiala ki Rao Beat
	400	2	
	400		Nepli near Marhi and Sector 26

<i>Year</i>	<i>No. of Plants</i>	<i>Size of Plot/ Area (in Hectares)</i>	<i>Location</i>
2016-17	800	2	Barotiwala Beat and Patiala ki Rao Beat
	400	2	Nepli & Hallomajra
	400		
2017-18	1200	3	Lake Beat and Kansal Bear
	400	3	Nepli, Nathewala and Manimajra
	400		
	400		

Besides this, Forest Department is also carrying out gap plantations in forest areas which includes fruit bearing species.

(k) Due to steps taken, Forests and Wildlife Department has captured large number of Monkeys in last 3 years as below. All these such captures monkeys have been released in Sukhna Wildlife Sanctuary :-

<i>Year</i>	<i>No. of Monkeys captured & released in Sukhna Wildlife Sanctuary by Forest & Wildlife Department</i>
2014-2015	182
2015-2016	220
2016-2017	126
2017-2018 (till 25 th Sept., 2017)	37"

Respondent No.2 filed another affidavit to apprise the Court of the efforts being taken to control the monkeys menace in Chandigarh and made the following averments:-

- “(a) Patrolling in the affected areas will be further intensified by Department of Forests and Wildlife. The Wildlife Squad which will be further strengthened by deploying more staff and additional resources.
- (b) The citizens helpline will be made more effective. Citizens will be provided useful information dealing with monkey menace through advertisements in print and media. Printed literature about awareness on handling monkey menace will also be prepared and distributed in the general public.

- (c) Forests and Wildlife Department shall plant more fruit bearing species in the available patches in the forest areas so that food is available in the forest for the monkeys.
- (d) Forests and Wildlife Department will also issue appropriate directions to Municipal Corporation, Chandigarh to get all the garbage bins covered so that the monkeys do not get to pick up discarded food from these bins.
- (e) Forests and Wildlife Department will request Municipal Corporation, Chandigarh to amend its Bye-Laws wherein feeding monkeys shall be an offence and shall be fined as being done by Shimla Municipal Corporation.
- (f) Forests and Wildlife Department will also seek expert opinion from Wildlife Institute of India, Dehradun on handling and avoidance of monkey menace based on their experience in similar circumstances elsewhere in the country.”

From the aforesaid narration of facts, it is apparent that the respondents have themselves admitted about the monkey menace in the city of Chandigarh for which respondent no.2 has been continuously making earnest efforts to sensitize the residents of the city about their own behaviour with the monkeys and have published the hotline numbers of the Forest Officials in case they need any help to deal with the monkey menace.

That apart, the question is about the grant of compensation to the petitioners on account of death of their son, allegedly by the monkey attack. The evidence brought on record are sufficient to hold that the son of the petitioner died because of the injury caused by the monkey.

Thus, now the question would be as to what compensation should be awarded to the petitioners and who should pay it?

Already the petitioners have been awarded ₹4 lacs as an interim compensation. Since the deceased was 18 years of age and was employed with

a private employer but since no evidence has been brought on record about his monthly income, therefore, being an able bodied person of 18 years of age, the monthly income of the deceased is being assessed @ ₹10,000/- per month and after deducting 1/3rd thereof for personal necessity of the deceased, it comes to ₹6,666/- per month and ₹6,666x12=₹79,992/- per year. Now comes the multiplier to be applied for the purpose of computation of compensation keeping in view the age of the deceased. As in this case the deceased was 18 years of age, therefore, multiplier of 17 has to be applied and after applying the multiplier of 17, the total compensation to be awarded to the petitioners comes to ₹13,59,864/-, out of which ₹4 lacs have already been paid by the respondents.

Thus, the remaining amount of ₹9,59,864/- shall have to be paid to the petitioners as compensation, which is ordered to be paid to them by the Chandigarh Municipal Corporation along with simple interest @ 9% per annum to be calculated from the date of death of the deceased, i.e. 31.03.2015, within a period of three months from the date of receipt of certified copy of this order. Since the Chandigarh Municipal Corporation has disputed its liability to pay the compensation and has tried to shift the same upon respondent no.2, therefore, it may settle this dispute lateron with respondent no.2 in this regard, in accordance with law.

April 17, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No