

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MFA(FA) No.02 of 2025

1. Tripura State Electricity Corporation Ltd. and 4 Others.

..... Appellants

-V E R S U S-

1. Sri Chandarai Tripura and 2 others.

..... Respondents.

B E F O R E
HON'BLE JUSTICE DR. T. AMARNATH GOUD

For Appellant(s)	:	Mr. K. Deb, Advocate. Mr. B. Paul, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, Sr. Advocate. Mr. K. Deb, Addl. G.A. Mr. S. Das, Advocate.
Whether fit for reporting	:	YES/NO

Judgment and order dated 22nd August, 2025

JUDGMENT & ORDER [ORAL]

Heard.

[2] This is an appeal filed under Section-96(2) read with Order-XLI, Rule-2 of the Code of Civil Procedure, 1908, against the judgment and decree dated 30.09.2024 and 03.10.2024 respectively in M.S. 27 of 2017 passed by the learned Civil Judge Senior Division, Court No.1, Agartala, West Tripura.

[3] The appellants have prayed for the following reliefs:

i. Admit this appeal.

ii. Issue notice upon the respondents.

iii. Call for records pertaining to the case No. M.S. 27 of 2017 disposed by way of judgment and decree dated 30.09.2024 and 03.10.2024 respectively by Ld. Civil Judge Senior Division, Court No.1, Agartala, West Tripura.

AND

And after hearing the parties be pleased to set aside/modify the judgment and decree dated 30.09.2024 and 03.10.2024 respectively, passed in M.S. 27 of 2017 by the Ld. Civil Judge Senior Division, Court No.1, Agartala, West Tripura, for fair ends of justice.”

[4] The facts in brief are that the respondent No.1 and 2 filed a money suit vide M.S. No. 27 of 2017, under the Fatal Accidents Act, seeking Rs.75,00,000/-, claiming compensation for the death of the deceased son of 17 years old in the court of Civil Judge Senior Division-Court No.1, West Tripura, Agartala for getting compensation along with interest as damages as well as mental agony and pain and sufferings due to electrocution where the learned Court below by way of impugned judgment and decree dated 30.09.2024 and 03.10.2024 respectively awarded an amount of Rs.21,94,000/- only with an interest @ 6% per annum w.e.f. date of institution of the suit till the date of payment of the entire amount, from the defendant i.e. the appellant.

[5] The learned Tribunal after hearing the parties and on perusal of the material evidence on record has observed as under:

“11. As a result thereof, the suit is thus decreed partly in favour of the plaintiff with no order as to cost.

It is hereby declared that the plaintiffs are entitled to receive an amount of 2,194,000/- only with an interest @ 6 % per annum w.e.f. date of institution of the suit till the date of payment of the entire amount, from the defendant Nos. 2 to 6.

The defendant Nos. 2 to 6 are hereby directed to pay the amount of 2,194,000/- only with an interest @ 6 % per annum w.e.f. date of institution of the suit within six months from the date of decree, failing which, amount shall carry increased interest @ 9 % per annum till payment of the entire amount with accrued interest.”

[6] Being aggrieved by and dissatisfied with the same, the present appeal has been preferred by the appellant herein.

[7] The learned Court below fails to appreciate the fact that the plaintiffs i.e. respondents in the present case fails to prove that there is any negligence on the part of the defendants herein appellants. Mere death by electrocution cannot not automatically attribute liability of an accident upon the defendant's i.e. appellants herein. The learned Court below did not appreciate the fact that there is no such post as Chairman-cum-Managing Director, The Tripura State Electricity Corporation Ltd. Bidyut Bhavan, near Bodhjunga Chowmononi, Agartala, West-Tripura and as such the impugned judgement and decree is liable to set aside for non-joinder and mis-joinder of necessary parties.

[8] The learned Court below has failed to appreciate that in absence of any permanent job, future prospect ought to have been added at 40% and not beyond that following the guidelines laid down in National Insurance Co. Ltd. vs. Pranay Sethi [(2017) 16 SCC 680]. The learned Court below failed to properly apply the deduction towards personal expenses, as the deceased was unmarried and dependent on parents, thus 50% deduction should have been properly accounted for.

[9] The learned Court below erred in awarding excessive amounts under conventional heads such as Rs.2,00,000/- towards mental shock and agony and Rs.50,000/- towards funeral expenses beyond the prescribed limits under law. As per Pranay Sethi's judgment, only Rs. 15,000/- is permissible for funeral expenses and Rs. 15,000/- for loss of estate, while Rs.40,000/- per parent (total Rs.80,000/-) is permissible for loss of consortium. As per the calculation based on correct income assessment of Rs.10,000/- per month as unskilled worker, the total compensation would come to Rs.16,22,000/-, and thus, the award of Rs.21,94,000/- is highly excessive and inflated. The excess amount calculated is Rs.5,72,000/- and with 7% interest it comes to Rs.8,12,240/-, thereby causing huge financial burden on the appellant. Hence, the awarded sum is liable to be reduced.

[10] The learned Court below ought to have followed the settled legal position that in absence of cogent documentary proof of income, the income of an unskilled worker should be adopted and future prospects added accordingly, rather than speculative assessment of income. The learned Court below failed to consider that no proof of profession as a welder or income of Rs.25,000/- per month was furnished by the claimants and reliance on such unproved facts is against the principles of fair adjudication.

[11] The learned Court below has failed to appreciate that the deceased was a minor aged 17 years and no income proof certificate or age proof was submitted by the claimants. In absence of any cogent documentary evidence, the monthly income of Rs.12,000/- assessed as skilled worker is erroneous and contrary to law. As per the notification of the Hon'ble High Court dated 04.01.2023, the income of an unskilled worker should have been

considered at Rs.10,000/- per month and not as a skilled worker since a 17-year-old cannot be presumed as skilled without proof.

[12] Before proceeding further, it is necessary to understand the meaning of the term negligence. Negligence is the breach of a legal duty to take care which results in damage, undesired by the defendant to the plaintiff. Winfield and Jolowicz as described by Lord Wright "Negligence means more than headless or careless conduct, whether in commission or omission; it properly connotes the complex concept of duty, breach, and damage thereby suffered by the person to whom the duty was owed." In *Blyth v. Birmingham Water Works Co*, the term "Negligence" was defined as the omission to do something which a reasonable man would do or doing something which a prudent or reasonable man would not do.

[13] Reverting back to the present case, to fasten liability upon the defendants for the accidental death of the deceased due to negligence of the defendant, the plaintiffs ought to prove the defendants owed a duty to take proper care and caution and that they failed in fulfilling this duty and this resulted in the untimely death. The evidence adduced establishes that the death occurred due to snapping of electric wire when he was passing through the road. It further appears from the oral as well as documentary evidences adduced by the plaintiffs that immediately after the accident O/C Chaumanu P.S was informed and a UD case bearing No- 1/2017 u/s 174 Cr.P.C was registered.

[14] The learned Court below on the strength of proof of birth marked as Exbt.1 has considered the age of the deceased as 18 years and accordingly made the multiplier 18.

[15] In view of above and having observed the findings of the learned Court below, this Court is of the opinion that the assessment as assessed by the learned Court below on different heads except for mental shock and agony i.e. Rs.2,00,000/- and Rs. 50,000/- for funeral expenses are correct. Thus, the amount awarded on the count of mental shock and agony for parents would be reduced into Rs. 80,000/- i.e. [Rs.40,000x2 = 80,000/-] by following the principle of ***Magma General Insurance Co. Ltd v. Nanu Ram Alias Chuhru Ram***, reported in (2018) 18SCC 130 instead of Rs.2,00,000/- and Rs. 50,000/-

would be reduced into Rs.15,000/- following the principle of ***National Insurance Co. Let. v. Pranay Sethi***, reported in **(2017) 16 SCC 680**. Thus, the total compensation comes to Rs.20,39,000/- instead of Rs.21,94,000/-. However, other terms and conditions shall remain unaltered.

[16] Accordingly, the present appeal stands partly allowed with the above modifications. The awarded amount shall be deposited by the Tripura State Electricity Corporation Ltd. within a period of one month from the date of receipt of the copy of this order, if not deposited earlier. However, it is made clear that on such deposit; the claimants are at liberty to withdraw the same unconditionally.

[17] As a sequel, miscellaneous applications pending, if any, shall stand closed. Registry shall do the needful and thereafter, send down the LCRs forthwith.

DR.T. AMARNATH GOUD, J

A.Ghash

ANJAN GHOSH Digitally signed by ANJAN GHOSH
Date: 2023.09.01 17:04:23 +05'30'

