

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MFA(FA) No.01 of 2024

Tripura State Electricity Corporation Ltd. & 3 Others

.....Appellants

-VERSUS-

Sri Ramkrishna Debbarma & 3 Others

..... Respondents

B_E_F_O_R_E
HON'BLE JUSTICE DR. T. AMARNATH GOUD

For Appellant(s)	:	Mr. N. Majumder, Advocate.
For Respondent(s)	:	Mr. K. De, Addl. G.A. Mr. D. Bhattacharya, Sr. Advocate. Ms. A. Chakraborty, Advocate.
Date of hearing and delivery of judgment and order	:	19.06.2025
Whether fit for reporting	:	YES

JUDGMENT & ORDER[ORAL]

Heard Mr. N. Majumder, learned counsel appearing for the appellants also heard Mr. K. De, learned Addl. G.A. Mr. D. Bhattacharya, learned senior counsel appearing for the respondents.

[2] This is an appeal filed under Section-96 of the Civil Procedure Code, 1908 from the judgment and decree dated 03.07.2023 and 31.07.2023 respectively passed by the learned Civil Judge, Senior Division, Agartala, West Tripura, Court No.1 in connection with case No. Money Suit No.1 of 2019.

[3] The plaintiffs-respondent filed the Suit under Section-1(A) of the Fatal Accident Act, 1855, for compensation on the death of Rupak Debbarma aged 15 years who died of alleged electrocution on 14.07.2016 at 4½ mile nakul debbarma para, under P.S-Ambassa, District- Dhalai Tripura. A case was registered under Ambassa P.S U.D case bearing No. 019 of 2016 dated 14-07-2016. The defendant-appellants filed the written objection. There was no negligent and actionable wrong committed by the defendants.

The occurrence took place while the deceased Rupak Debbarma (aged 15 years) went to pluck papaya with the help of a bamboo stick and when he was trying to pluck papaya he came in contact with a live electric wire and got electrocuted and passed away. There is no negligent or actionable wrong by the defendant-appellants corporation as regard to the occurrence.

[4] It appears from the evidence of Exhibit-1 post mortem report that the age of the boy was 15 years also the Exhibit- 4 i.e. the final investigation report the age of the boy is 15 years. Being a minor boy of 15 years having no income, surprisingly the learned Court below wrongly considered the age of the deceased boy as 17 years and a motor mechanic without any supportive documentary evidence and came into a wrong conclusion. The learned Court below decided all the issues in favour of the plaintiffs. The learned Court below observed that the age of the deceased boy was 17 years and his income was Rs.15,000/- per month as motor mechanic. The learned Court below assessed 40% as future prospect with 18 multiplier and passed the judgment and decree holding the plaintiffs are entitled to get Rs.19,31,000/- (Rupees Nineteen lakhs and thirty one Thousand) only with interest of 7% from the date of accident that is 14.07.2016 till the date of realization of the entire amount to the plaintiff thereof, is totally unjustified.

[5] No scarp of documents/certificate regarding age proof; motor mechanic or the income Rs.15,000/- per month was placed by the claimants. In absence of any certificate of age proof and motor mechanic the learned Court below had reached in a wrong decision. The date of accident i.e. 14.07.2016 whereas the suit filed after the statutory period of 2 years which is barred by Article-82 of the Limitation Act.

[6] Hence, the present appeal has been filed against the judgment & decree dated 03.07.2023 and 31.07.2023 respectively passed in Money Suit No. 01 of 2019 by the learned Civil Judge, Senior Division, Agartala, West Tripura, Court No-1.

[7] Having heard the learned counsel appearing for the parties and gone through the material evidence on record, the learned Court below has observed as under:

“15. In consideration of my decisions on the aforesaid points, the suit of the plaintiffs is decreed in favour of the plaintiffs declaring the following;

The accidental death of Lt. Rupak Debbarma occurred due to negligence of the defendant Nos.3 to 6 and so they are responsible for paying compensation of an amount of Rs.19,31,000/- (Rupees Nineteen lakhs and thirty one thousand only) with interest of 7 percent from the date of accident that is 14/07/2016 till the realization of the entire amount to the plaintiffs.

The defendant Nos. 3 to 6 are hereby directed to pay the compensation within six months from the date of the decree.....”

[8] Mr. Majumder, learned counsel appearing for the appellants has submitted that the learned Court below did not take into consideration of the fact that the deceased was plucking papaya by a bamboo stick by his own fault he touched the electric live wire causing the death of his own fault he was electrocuted and died. So, there was no fault or actionable wrong on the part of the defendant-appellants as the deceased was electrocuted with his own act and action touching the bamboo with the live electric.

[9] The learned Court below failed to appreciate that, there was no actionable wrong committed by the opposite party or having any negligence. So, it does not attract Section-1A of the Fatal Accident Act. The defendant-appellants have no liability on this false plea and contentions of the plaintiffs.

[10] The Court below ignored the evidence and documents on record. It appears from the evidence of Exhibit-1 post mortem report that the age of the boy is 15 years. Also the Exhibit- 4 i.e. the final investigation report the age of the boy is 15 years and no documentary proof was produced. Exhibit-4 final investigation report under Section-174 of Cr.P.C, the age of the deceased boy is 15 years was completely ignored by the learned Court below wherein, specifically at serial mentioned that, name of the deceased Rupak Debbarma (15), During investigation it is well established that on 14.07.2016 at about 1430 hours while Rupak Debbarma

(15), S/O Sri Ram Krishna Debbarma of Nakulpara 4½ mile P.S:- Ambassa to collect papaya from the papaya tree by a dry bamboo from the premises of his house, suddenly the dry bamboo touch a electric wire then Rupak Debbarma got a electric shock. The relatives and others shifted him to the Hospital and declared him death due to electrification; and the cause of death ventricular fibrillation due to electrocution.

[11] It has been further contended that the learned Court below also ignored the Exhibit -5/1 Dead body challan, the name of the boy is Rupak Debbarma and the age is 15 years. Exhibit -7, the reply of Advocate Notice by the Senior Manager, Ambassa ESD dated 27.12.2018 wherein, specifically replied that, an electric line was erected in front of the house of the deceased, but it is denied that, the electric wire was connected loosely and touched the papaya tree of the deceased.

[12] Having heard the learned counsel appearing for the parties and the over analysis given by the learned Court below this Court is of the opinion that the deceased died due to the failure of the defendants in maintenance and upkeep of the road side high voltage electric wires and due to their negligence in taking proper care and caution, a young healthy boy lost his life. Learned counsel appearing for the appellant has contended that the bamboo was dry by which he was trying to pluck the papaya. A dry bamboo stick is a non-conductor of electricity and even if it is assumed that the deceased intentionally touched the live electric wire with the dry bamboo stick, he would not have been electrocuted.

[13] The only possible way the deceased might have been electrocuted was if the papaya tree, from which the deceased was trying to pluck papaya, was conducting electricity. This would happen only if electric wires by the road side were touching the tree. A papaya tree is not of much height and it proper care and caution was taken than the tree would not have come in contact with a live electric wire. The organization which manages the electric connections in the place where the accident occurred and it is the duty of the concerned department to take proper care and caution in the maintenance and upkeep of electric wires on the street side. As the

appellants were dealing with a highly risky and hazardous substance like electricity which is overlooked can be life threatening, the duty cast upon the appellant is very heavy and they cannot shrug away their duties to take reasonable care and caution by saying that there was contributory negligence of deceased.

[14] It is the duty of the appellant to maintain proper care and caution and taking all safety measures in keeping hazardous substances such as live electric wires at a safe distance and out of the reach of the public in general, so that accidents do not occur. But the evidences on record establishes that the appellants have not taken proper care and caution in keeping the live electric wire, at a safe distance from the papaya tree which was beside the road and due to this, the papaya tree might have acted as a conductor of electricity and resulted in the accident. This being so, the failure of the appellants in taking proper care and caution to maintain the electricity wire which resulted in the electrocution of the son of the respondent is clearly established.

[15] Regarding age of the deceased, in the evidence of the mother it reveals that her son was 17 years of age and was working as motor mechanic and his monthly income was of Rs.15,000/- and said statement was not disputed or cross-examined by the concerned respondents and nobody has entered into the witness box to adduce evidence and no evidence was adduced by the appellant to demolish the contentions made by the mother of the deceased. Since, the appellant has failed to perform their duties and also failed to assist the Court regarding this issue, the income assessed by the learned Court below, needs no interference.

[16] It is seen that there is no representation of the electricity department officials before the learned Court below and the appellant-defendants have not entered into the witness box for adducing any evidence in their favour and it is also pertinent to note that the accident has taken place on July, 2016 and in the State of Tripura July is full of rain and heavy growth of plantation will be there and it becomes essential duty of the electricity corporation and its staffs for a periodical inspection and to cut the

unwanted trees and branches which are disrupting the live electric wire and reduce the possibility of causing short-circuit and fatal accidents.

[17] Since the concerned officials of the electric department have failed in perform their duties for which they are taking the monthly salaries/wages and also not chosen to adduce any evidence before the Court and have not assisted the proceeding, this Court is inclined to award compensation to be paid by the electricity corporation and recover the same from the salaries of the staffs and erred officers of the electric department who are liable for the fatal accident.

[18] Accordingly, the electric corporation shall pay the compensation to the claimants and shall recover the said compensation from the salaries/retiral benefits of the concerned erred officers/staffs of the electricity corporation.

[19] Accordingly, the judgment and decree as passed by the learned Court below stands affirmed and thus, the appeal stands dismissed. As a sequel, miscellaneous application, pending if any, shall stand closed.

T. AMARNATH GOUD, J

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