

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.822 OF 2008

1) The Executive Engineer,
Maharashtra State Electricity
Supply Co.Ltd., Division
Office, Jalna Road, Beed.

2) The Assistant Engineer, Sub-
Division, Maharashtra State
Electricity Supply Company
Ltd., Ashti, Tq.Ashti,
Dist.Beed

3) Junior Engineer, Maharashtra
State Electricity Supply Co.,
Ltd., Dhanora, Tq.Ashti, ..Appellants
Dist.Beed

V E R S U S

1) Muktabai w/o. Gowardhan
Pathare, Age 37 years, occ. :
Household, r/o. Sale Wadgaon,
Tq.Ashti, Dist.Beed

2) Bhagwan s/o. Gowardhan
Pathate, age 20 years, occ. :
Education, r/o. Sale Wadgaon,
Tq. Ashti, Dist. Beed

3) Vikram s/o. Gowardhan
Pathare, age 18 years, occ. :
Education, r/o. Sale Wadgaon,
Tq. Ashti, Dist. Beed

4) Mahadeo s/o. Gowardhan
Pathare, age 15 years, occ. :
Education, minir, u/g. Of
respondent no.1 Muktabai real
mothe, r/o. Sale Wadgaon, Tq.
Ashti, Dist. Beed

5) Namdeo s/o. Balu Pathare, age
67 years, occ. Nil, r/o. Sale
Wadgaon, Tq. Ashti, Dist.
Beed

6) Asrabai w/o. Namdeo Pathare,
age 60 years, occ. Nil, r/o. : ..Respondents
As above

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Mr.H.M.Nikam, advocate for appellants

Mr.S.G.Chapalgaonkar, advocate for respondent
nos.1 to 6

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CORAM : M.T. JOSHI, J.

DATE : MARCH 02, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the direction to pay the compensation of Rs.Four Lakhs to the claimants, the original defendants have filed the present appeal.

3] The record would show that deceased - Gowardhan Pathare, a 35 years old agriculturist, has died in the agricultural field as live electric wire had suddenly snapped and fell down in the water which, caused shock to the deceased and ultimately, he died. Therefore, the suit for compensation was filed by the dependents of the deceased.

4] It was claimed that the accident has occurred due to negligent maintenance of the live electric wires by the present appellants. As regards the compensation, it was claimed that the deceased was an agriculturist and was also used to take

adjoining land on contract basis for cultivation. His yearly income was Rs.40,000/- and therefore, compensation of Rs.7,20,000/- was claimed. It was, however, limited to Rs.4,00,000/- as the the claimants were unable to pay the requisite Court fees on the said amount.

5] Present appellants denied all the contentions of the claimants. They claimed that the live electric wires were maintained properly. The quantum of the compensation was also denied.

6] Learned trial Court came to the conclusion that the accident has occurred as the live electric wires were not maintained properly. As regards the quantum of the compensation, learned trial Court assumed that the deceased was getting Rs.60/- per day and accordingly, he was getting Rs.1,800/- per month. His annual income was, thus, arrived at Rs.21,600/-. Taking into

consideration the material on record, the trial Court came to the conclusion that the compensation of Rs.4,00,000/- would be just.

7] Mr.Karwa, learned counsel for the appellants submits that he does not seriously dispute the finding regarding negligence. He, however, submits that the findings of the learned trial Court regarding the compensation are not based on the material, but merely, on certain guess work as is clear from the judgment. He submits that no amount towards the personal expenses of the deceased was deducted while computing the compensation amount.

8] On the other hand, Mr.Chapalgaonkar, learned counsel for the respondents submits that the reasoning of the trial Court would show that the trial Court has merely assumed that the deceased was an agricultural labour while, the certified

copy of the 7/12 extract would show that the deceased had also some agricultural land. On the basis of the oral evidence learned Judge ought to have held that the deceased had obtained the land in question, on contract basis. He, therefore, submits that the appeal may be dismissed.

9] On the basis of this material, following point arises for my determination :-

Whether the compensation awarded by the learned Judge of the trial Court is just ?

. My findings to the above point is in the affirmative and the appeal is, therefore, dismissed for the reasons to follow.

R E A S O N S

10] The certified copy of the 7/12 extract would show that the joint family of the deceased had owned agricultural land ad-measuring 3 Acres and 33 Gunthas. The oral evidence would suggest that the deceased had undertaken cultivation of the adjoining land on contract basis. In the teeth of this material, learned trial Court assumed that the deceased was an agricultural labour and on that basis, the calculations were made.

11] If we take into consideration that the deceased was an agriculturalist and was 35 years old healthy person at the time of his unfortunate death, his income could be arrived at Rs.36,000/- per year. Upon deduction of $1/4^{\text{th}}$ towards his personal expenses, his yearly income would come to Rs.27,000/-. If proper multiplier of 16 is applied in view of the decision in the case of **Smt. Sarla**

Verma & Ors. Vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, in my view, the compensation would be much higher than granted by the learned Judge of the trial Court.

12] In that view of the matter, I am not inclined to interfere with the award passed by the learned Judge of the trial Court.

13] In the result, present First Appeal is dismissed.

14] The respondents would be at liberty to withdraw the amount deposited in this Court by the appellants, after the appeal period is over.

[M.T. JOSHI, J.]