

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

A.S.No.107 of 2015

Date : 10-2-2015

Between :

Central Power Distribution Company of
Andhra Pradesh, now Southern Power
Distribution Company of Andhra Pradesh,
Represented by its Superintending Engineer,
Bellary Road, Kurnool ..Appellant

And

S. Bhagyamma and others
..Respondents

Counsel for appellants : Mr. S.V. Ramana for Mr. O.
Manohar Reddy

Counsel for respondents : --

The Court made the following:

JUDGMENT:

This appeal arises out of Judgment and decree dated 4-11-2013 in O.S.No.264 of 2009 on the file of the learned Additional Senior Civil Judge, Kurnool.

I have heard Mr. S.V. Ramana, learned counsel representing Mr. O. Manohar Reddy, learned Standing Counsel for the appellant.

The respondents filed the above mentioned suit for recovery of Rs.10 lakhs as compensation for the death of one S. Raghu Rami Reddy, who was the husband of respondent No.1 and father of respondent Nos.2 and 3. The respondents have pleaded that the deceased was an agriculturist having Ac.5-00 of fertile land and was involved in personal cultivation; that the deceased was the sole bread winner of the family; that the appellant is a Distribution Company which is responsible for supply of electricity in the entire Kurnool District; that on 24-4-2009, while the deceased was traveling on a motor cycle on a cart track from Loddipalle to Nannur, he ran over live wire which was found snapped and fallen on the ground and died

instantaneously; that the incident was witnessed by neighbors and upon receiving information, the Police have registered F.I.R; and that due to the untimely death of the sole bread winner of the family, the respondents have suffered huge loss, both financial as well as on personal front. The respondents pleaded that the deceased was aged 43 years at the time of the death and they have accordingly claimed a sum of Rs.10 lakhs towards compensation.

On behalf of the appellant, a written statement was filed wherein it has denied any negligence on its part. It was pleaded that the accident has taken place due to the rash and negligent driving of the deceased and that there was no possibility of the conductor continuing to be live after it snapped and fallen on the ground.

On the basis of the respective pleadings of the parties, the lower Court has framed the following Points for consideration :

1. Whether the suit is bad for non joinder of necessary and proper parties?
2. Whether the deceased died due to electrocution?
3. Whether the deceased drove the motorcycle in a rash and negligent manner and died due to his own negligence?
4. Whether the injuries sustained by the deceased are not due to electrocution?
5. Whether the compensation amount claimed by plaintiffs is excessive and imaginary?
6. Whether the plaintiffs are entitled for compensation as prayed for in the plaint and to what relief?

On behalf of the respondents, respondent No.1 examined herself as PW-1 and also examined PW-2 and PW-3. She has also got Exs.A-1 to A-7 marked on her side. On behalf of the appellant, DW-2 was examined. The chief examination affidavit of DW-1 was eschewed. On consideration of the oral and documentary evidence, the lower Court has partly decreed the suit by awarding a sum of Rs.5 lakhs as compensation with interest @ 6% per annum from the date of the suit till the date of realization, besides awarding costs.

A perusal of the record shows that Ex.A-1 report given by the father of the deceased mentions that for two days before the accident took place, the snapped electrical wire was hanging from the poles on the ground and that his son came into contact with the live wire while travelling on his motor cycle and got electrocuted. Ex.A-2 – inquest report, and Ex.A-3- post mortem report, specifically mention the cause of death of the deceased as due to electrocution. PW-3 is an independent witness who has deposed that he was a witness to the accident. In his testimony, he has clearly supported the case of the plaintiffs. Based on this oral and documentary evidence, the lower Court has held, and in my view rightly, that the death of the deceased has occurred on account of electrocution and that the appellant is liable to compensate the family of the deceased under the

doctrine of strict liability. The lower Court has also placed reliance on the Judgment of the Supreme Court in **Madhya Pradesh Electricity Board Vs. Shali Kumar and others**^[1]

to fortify its finding that the appellant is liable to pay compensation under the strict liability theory. As such I have no reason to interfere with the finding of the lower court that the accident occurred in the manner alleged by the plaintiffs and that the appellant is liable to compensate for the death of the deceased.

As regards the quantum of damages, respondent No.1 is aged 37 years; respondent No.2 is aged 19 years and respondent No.3 is aged 16 years. It has come out in the evidence that the family of the deceased has got Ac.5-00 of agricultural land. While finding that the sum of Rs.10,00,000/- claimed by the respondents is on a high side, the lower Court has quantified the compensation at Rs.5 lakhs. The loss suffered by the family comprising young widow and two children out of whom one is a minor, on account of the death of the deceased who was 43 years of age, due to electrocution, is indeed irreparable. Any amount of compensation cannot fill the void caused due to such death. The magnitude of agony the entire family has suffered and continues to suffer in future is hard to imagine. Besides the hard feeling of loss of their family member, the stark reality of deprivation of the services of the deceased

as the sole earning member is somewhat unbearable for the entire family. Keeping in view these factors and the present day inflationary trends, award of Rs.5 lakhs as compensation for the death of a 43 year old person cannot be said to be unreasonable. Though the lower Court has not discussed the heads of account under which it has awarded the compensation, considering that the compensation awarded is very modest, I do not feel that any such specific discussion needs to be undertaken. It can be easily presumed that an agriculturist having Ac.5-00 of land will earn at least Rs.50,000/- per annum and even if the life expectancy is taken at 55, for 12 years the deceased would have earned at least Rs.6 lakhs. This apart, the widow of the deceased is entitled for compensation towards loss of consortium. Thus, even taking a very conservative view, award of compensation of Rs.5 lakhs by the lower Court is very reasonable and no interference is called for.

For the above mentioned reasons, the appeal is dismissed. The appellant is permitted to deposit the compensation amount before the lower Court within three months from today. On such deposit, the respondents are entitled to withdraw the same.

As a sequel to the dismissal of the appeal, ASMP No.255 of 2015 is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 10-02-2015
AM

[\[1\]](#) AIR 2002 S.C. 551