

In the High Court of Punjab and Haryana at Chandigarh

RSA No.4459 of 2015 (O&M)

Date of decision: October 01, 2015

Shiv Kumar @ Ram

..... Appellant

Versus

Raj Devi and others

..... Respondents

AND

RSA No.4472 of 2015 (O&M)

Jai Bhagwan

..... Appellant

Versus

Raj Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Parminder Singh, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J.(Oral)

This order of mine shall dispose of two Regular Second Appeals bearing Nos.4459 and 4472 of 2015 (O&M).

Challenged in these two appeals is the judgment and decree dated 29.07.2015 passed by the learned Additional District Judge, Karnal affirming the judgment and decree dated 21.02.2014 passed by the learned Additional Civil Judge (Senior Divn.), Karnal vide which the suit of the plaintiffs was decreed for recovery of ₹06 lacs along with interest @ 6% per annum w.e.f. 03.10.2006 till the realization by way of compensation/damages against all the defendants. Defendants No.1 to 3 and defendants No.4 and 5 were held jointly and severally liable in equal share to make the payment of compensation amount to the plaintiffs within three months from the date of passing of the judgment.

The controversy between the parties is that according to the plaintiffs on 03.06.2006 at about 7.00/7.30 p.m., Som Parkash along with his pet dog had gone to the agricultural fields. When he reached near the field of Shiv Kumar @ Ram-defendant No.4, there was naked electric cable/wire lying on the berm of his agriculture field. Som Parkash and his pet dog came in contact with the naked cable/wire and received high voltage current of the electricity and died at the spot. The naked cable/wire was lying unattended without any warning. The cable was attached with the

transformer installed by defendants No.1 to 3. It was claimed that defendants No.4 and 5 Shiv Kumar and Jai Bhagwan were indulging in the theft of electricity while conniving with the officials of respondent department. A criminal case bearing FIR No.233 dated 03.02.2006 under Section 304-A IPC was registered at Police Station, Indri, District Karnal. The official respondents took the plea that the naked wire lying in the fields of Som Parkash and Shiv Kumar, was not laid by the electricity Nigam. Jai Bhagwan had installed the said wire in an illegal and unlawful manner. The officials of electricity Nigam visited the spot, checked the premises of Jai Bhagwan and found him committing theft by using naked wire. Report dated 03.10.2006 and Memo No.85 dated 18.10.2006 was issued to Jai Bhagwan vide which penalty of ₹6,000/- was imposed upon him. Jai Bhagwan was not a consumer of electricity Nigam. The accident does not occurred due to the negligence on the part of electricity Nigam.

Shiv Kumar-defendant in the separate written statement pleaded that if there is negligence, it was on the part of employees of electricity Nigam. Jai Bhagwan in the written statement also claimed that negligence is on the part of the electricity Nigam. They had not removed the cable having live current, which was lying on the ground. He denied any negligence on his part and claimed that electricity connection No.SG-

23-0249 installed in his premises in his dera. He further claimed that on 02.10.2006, there was no supply of electricity in his dera due to breakage of wire. He had made a complaint at Sr. No.123. He had again lodged a complaint. He admitted that he had received notice regarding imposition of penalty of ₹6,000/- on the ground that he was committing theft of electricity.

I have heard the learned counsel for the appellants and have also gone through the Lower Court file.

Both the Courts below have held that all the defendants were negligent and, therefore, the compensation was ordered to be paid by them. It was found that cable measuring 237 feet was being used by Jai Bhagwan defendant for running his tubewell in an unauthorized and unlawful manner, which is not possible without the connivance of officials of electricity Nigam. I am of the view that the findings of fact have already been recorded, which cannot be interfered in the present Regular Second Appeals. No substantial question of law arises. Hence, both the Regular Second Appeals stand dismissed.

(KULDIP SINGH)
JUDGE

October 01, 2015

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