

468

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**RSA No.1837 of 2006 (O&M)  
Date of Decision: 13.05.2016**

**Haryana State Electricity Board and others  
.....Appellants**

**Vs**

**Smt. Santosh  
.....Respondent**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Gaurav Mohunta, Advocate  
for the appellants.

None for the respondent.

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1. *Whether Reporters of local papers 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?*

**RAJ MOHAN SINGH, J.**

[1]. This appeal has been preferred by the appellants- Haryana State Electricity Board now UHBVN along with its official functionaries against the judgment and decree dated 25.10.2005 passed by District Judge, Karnal whereby judgment and decree dated 31.08.2002 passed by Additional Civil Judge (Sr. Divn.) Karnal was reversed and suit of the plaintiff was decreed for a recovery of Rs.2 lac against the defendants/appellants with costs. It was also ordered that in case defendants/appellants fail to make payment of the

decretal amount within three months of the passing of the judgment and decree, plaintiff shall be entitled to get interest @ 6% per annum from the date of filing of the suit till final recovery. However, court fee payable on the decretal amount was held to be first charge over the compensation as the suit was filed as an indigent person by the plaintiff.

[2]. Plaintiff-Santosh filed suit in question with the averments that on 22.02.1995 at about 10.00 a.m., she went to the fields of Balbir Singh and Pal Singh for collecting fodder grass. She covered her head with *chuni* because of rain. Suddenly a hanging wire from electricity pole in the field touched her head. She tried to remove the wire with her hand and got heavy shock due to which her right hand and left leg got burnt. She also received multiple grievous injuries. She was rescued by Bal Singh and Rishi Pal. Plaintiff was removed to Civil Hospital, Karnal and from there she was referred to PGIMS Rohtak, where she remained admitted for 5-6 months i.e. from 22.02.1995 to 26.05.1995. Plaintiff became permanently disabled as a result of amputation of right arm. Medical Board found her permanent disability to the extent of 80%. The matter was reported to the Police, but no action was taken. Plaintiff incurred huge medical expenses on her treatments. Since the defendants/appellants were negligent in maintaining the

electricity installations, damages were sought by the plaintiff against them.

[3]. Suit was contested by the defendants on the ground of maintainability, cause of action, non-joinder of necessary parties etc. On merits it was pleaded that no intimation was ever received by the office of defendants regarding accident as alleged. While denying the remaining averments dismissal of the suit with costs was prayed for.

[4]. After filing of the replication by the plaintiff, both the parties went to trial on the following issues:-

- “1. Whether the plaintiff is entitled for a decree for the declaration to the effect that the plaintiff is entitled to recover a sum of Rs.2 lac from the defendant on account of permanent disablement of her right hand on the grounds mentioned in the plaint? OPP*
- 2. Whether the suit of the plaintiff is not maintainable? OPD*
- 3. Whether the plaintiff has no cause of action against the defendants to file and maintain the suit? OPD*
- 4. Whether the suit of the plaintiff is bad for non-joinder of necessary parties? OPD*
- 5. Relief.”*

[5]. Both the parties led their respective evidence on the

aforesaid issues to prove their case.

[6]. Trial Court dismissed the suit vide judgment and decree dated 31.08.2002, however the same was reversed by the lower Appellate Court vide judgment and decree dated 25.10.2005.

[7]. I have heard learned counsel for the appellants/defendants and have perused the record.

[8]. At the time of admission of the appeal, following substantial questions of law were framed:-

- “1. Whether the delay in lodging the report was fatal to the case of the respondent?*
- 2. Whether non-examination of the farmer in whose fields the incident took place is fatal to the case of the respondent?”*

[9]. This Court did not stay the execution of the impugned judgment and decree passed by the lower Appellate Court, however interest portion of the amount of compensation awarded by the lower Appellate Court was stayed. The awarded amount was ordered to be deposited by the appellants/defendants within eight weeks, but the amount was ordered to be released to the respondent on her furnishing adequate security, after due notice to the appellants/defendants.

[10]. Before embarking upon merits of this case, it is necessary to see that before the trial Court, issues No.2 to 4 were never pressed, nor any evidence to that effect was led by

the appellants/defendants. Issues No.2 to 4 were with regard to maintainability of the suit, cause of action and non-joinder of the necessary parties. The only surviving issue was issue No.1 for which lower Appellate Court took cognizance with reference to evidence and reversed the same thereby decreeing the suit of the plaintiff in the manner as suggested above.

[11]. During pendency of the first appeal before the lower Appellate Court, an application for additional evidence filed by the plaintiff-respondent was allowed and as a consequence thereof, PW-8 Sh. Satish Kumar Kakkar, Executive Engineer office of Chief Electrical Inspector, Government of Haryana was examined, who deposed in the context of his report (Ex.P-2) that the accident in question took place due to poor maintenance and negligence of the officials of the defendants/appellants.

[12]. Learned counsel for the appellants contended that no report of the occurrence was given to the immediate officials of the appellant-Department, nor any notice was given to the Electrical Inspector for conducting the investigation. No photographs of the occurrence were produced showing any negligence on the part of the appellants/defendants. There was apparent delay of 20 days in lodging the report with the Police. The owner of the field namely Balbir Singh was not examined in whose field the occurrence took place.

[13]. The contention of the learned counsel for the appellants sounds attractive, but on deeper scrutiny that ultimately palled into insignificance. The incident itself speaks volume about the miseries suffered by the plaintiff-respondent. *Maxim Res Ipsa Loquitur* fully attracted to the facts of this case. The occurrence took place on 22.02.1995. The injured was first referred to the Civil Hospital, Karnal and thereafter she was referred to PGIMS Rohtak. She remained there for months together and incurred huge medical expenses. PW-1 Mrs. Lavanya Prabha, clerk from the office of Civil Surgeon, Karnal has testified with regard to disability of the plaintiff-respondent which was found to be to the extent of 80% vide disability certificate dated 19.07.1995. The witness has proved the disability certificate. Plaintiff herself appeared as PW-2 and corroborated the pleading contained in the plaint. Shiv Kumar appeared as PW-3 and proved medical record of PGIMS, Rohtak. The witness has testified that plaintiff was admitted in PGIMS on 22.02.1995 and was discharged on 26.05.1995. She was admitted due to electric burns and was having 80% burn injury. The witness also proved the out patient card Ex.PW-3/A. Lal Singh, Assistant from the office of Civil Surgeon, Karnal appeared as PW-4 and he has also proved the entry in the Register where amputation of left arm above elbow of the plaintiff-respondent Santosh was recorded and she was

found to be 80% handicapped. Though there was some clerical omission respect of showing left arm. The X-Ray report available on file showed that there was amputation of right arm. Chand Singh father of the plaintiff appeared as PW-5 and stated that his daughter was rescued by Bal Singh and Rishi Pal. Smt. Shami sister of the plaintiff/respondent and Rishi Pal eye-witness who rescued the plaintiff were examined as PW-6 and PW-7 respectively. They have also supported the case of the plaintiff.

[14]. It is settled principle of law that civil cases are to be decided on the basis of preponderance of probability and evidence. Even though there was a delay in lodging the report with the Police (Ex.PW-6/A) by the father of the plaintiff, but the delay in itself is not a ground to discard the case of the injured, who was seriously burnt due to electrocution. Cogent and convincing evidence was led by the plaintiff/respondent with reference to official record that she suffered electric shock due to hanging wire in the fields on 22.02.1995 and suffered burn injuries which ultimately resulted in amputation of her right arm above elbow and she remained hospitalised from 22.02.1995 to 26.05.1995. Non-production of photographs regarding loose hanging wires and non-production of owner of the field are of no consequence. Defendants could not examine any witness who

could have said that the plaintiff did not suffered any electric shock due to loose hanging wire of electric pole in the fields of Balbir Singh. Merely because DW-1 Daya Ram and DW-2 Dharam Singh, AFM did not receive any message on 22.02.1995 in respect of the occurrence, does not *ipso facto* make the accident as non-existent.

[15]. Notice was given by the counsel for the plaintiff to the Chief Electrical Inspector in terms of Section 33 of the Indian Electricity Act for grant of compensation. The S.D.O (Operation) Sub-Division Munak also sent reply Ex.P-1 to that notice. The additional evidence in the form of examining Satish Kumar, Executive Engineer from the office of Chief Electrical Inspector, Government of Haryana and the report Ex.P-2 would show that an accident had taken place. Non-fatal accident had taken place in which plaintiff got serious injuries. The investigation of the Chief Electrical Inspector further revealed the attending facts and circumstances in which she got the burn injuries. If there was delay in lodging the complaint that was not fatal keeping in view the series of events which were proved by way of documentary evidence of concerned witnesses from 22.02.1995 itself.

[16]. In view of aforesaid finding, the delay in lodging the report was was not fatal to the case of the respondent and non-

examination of the owner of the land also was of no consequence in view of availability of overwhelming evidence on record. The substantial questions of law as framed are negated in this manner.

[17]. The accident in question could have been averted as per the report of Ex.P-2. It was on record that the plaintiff went to the field to collect grass fodder and suddenly got touched with the hanging broken conductor and met with non-fatal accident. This accident took place due to poor maintenance and negligence on the part of the officials of the defendants. The report further revealed that the accident could have been averted, if broken conductor had been set at right by the maintenance staff of the defendants. No evidence was led by the defendants in rebuttal to the additional evidence adduced by the plaintiff/respondent. Therefore, the evidence so led by the plaintiff/respondent in additional evidence went unrebutted and the report of PW-8 Satish Kumar, Executive Engineer from the office of Chief Electrical Inspector, proved to be the incriminating evidence against the defendants showing their negligence in maintenance of hanging/broken conductor.

[18]. Man may tell lies, but circumstances do not. The circumstances on record which led to this unfortunate happening was brought on record by way of voluminous

evidence. Medical evidence, the disability suffered by the plaintiff and the expenses incurred by the plaintiff have been brought on record with reference to evidence. However, lower Appellate Court while awarding total compensation of Rs.2 lac has ignored the reimbursement of medical expenses. No cross appeal was filed by the plaintiff-respondent for enhancement of the compensation. The break-up of the compensation as done by the lower Appellate Court inspired confidence inasmuch as that the age of the plaintiff was found to be 17 years at the time of occurrence. By taking annual loss @ Rs.10,000/- by applying multiplier of 16 the amount was calculated to the tune of Rs.1,60,000/-. Since the plaintiff was hospitalised from 22.02.2005 to 26.05.2005 and had also suffered physical pain and mental agony, therefore, she was granted an amount of Rs.20,000/- towards pain and suffering. There was loss on account of her inability to work for the period of confinement, therefore, an amount of Rs.10,000/- was thought appropriate towards loss of income and further Rs.10,000/- towards special diet. Even, if, medical bills were not assessed towards computation for total compensation still the plaintiff was satisfied with the award of Rs.2 lac towards compensation which in considered opinion of this Court is not liable to be reversed on the grounds as projected by the appellants. In the light of

observation made hereinabove, both the questions as formulated above have been cumulatively answered in preceding paras.

[19]. Having considered the submissions, this Court does not wish to interfere in the appeal preferred by the defendants/appellants and the same is accordingly dismissed. If the amount had not been released to the respondent as per decree of the lower Appellate Court, the same shall be released along with all consequential benefits or in case, if the amount has drawn by the plaintiff in compliance of order dated 14.09.2006, then the securities so furnished for getting the amount be released to her.

May 13, 2016

*Atik*

**(RAJ MOHAN SINGH)  
JUDGE**