

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

RSA-4586 of 2009 (O&M)

Date of decision: 29.03.2016

HVPNL and others

...Appellants

Versus

Suman and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Mohnish Sharma, Advocate
for the appellants.

Mr. Shiv Kumar, Advocate
for the respondents.

Jitendra Chauhan, J. (Oral)

CM-13733-C of 2009

Keeping in view the averments made in the application which is duly supported by an affidavit of Sh. Sattar Khan, SDO, DHBVN, the delay of 96 days in filing the present appeal is hereby condoned. CM is allowed subject to all just exceptions.

Main Case

The suit for damages filed by the plaintiffs/respondents was dismissed by the trial Court, vide judgment and decree dated 28.01.2008.

2. Aggrieved against the findings of the trial Court, the plaintiffs/respondents filed an appeal which was partly decreed by the learned 1st Appellate Court, vide judgment and decree dated 17.03.2009. Hence, the instant appeal has been filed by the appellants/defendants.

3. The learned counsel for the appellants contends that the learned 1st Appellate Court has gravely erred in ignoring the oral as well as documentary evidence on the record. The deceased, husband of respondent No.1 died due to electrocution while his car stopped in water due to some unknown snag and when he got down from the car, the electric wire lying under the rainy water caused him electric shock due to which, he died on the spot. The learned 1st Appellate Court failed in not considering the testimony of PW1, Suman, who had specifically stated that it had been raining heavily throughout the intervening night of 14/15.08.1998 as a result of which the live electricity wire broke down and fell in the water accumulated on the road. There is no fault of the appellants and they were not negligent.

Moreover, the Nigam had already settled the claim of the deceased and paid a sum of Rs.50,000/- to the respondent No.1, wife of the deceased.

4. On the other hand, the learned counsel for the respondents refers to the testimony of PW-3, Yogi @ Yogesh, who had specifically stated that he detected a live electricity wire on the diving road of Sector 7-8 in front of House No.835, Sector -7 Faridabad. Thereafter, he went to complaint centre and intimated about the said fact to the officials of appellant/defendant No.1. He also made phone call to the office of appellant No.3. Therefore, the learned counsel contends that the occurrence had taken place due to the negligence of the respondents. Furthermore, the Nigam had already paid the compensation amount to the respondents as awarded by the learned 1st Appellate Court.

5. I have heard the rival contentions of both the parties.

6. The perusal of the record reveals that the deceased Harinder Kumar died due to electrocution on 15.08.1998, while his car stopped in rainy water and he got electrocuted by the live wire lying under the rainy water. The deceased was of 25 years and was survived by his widow and two minor children. As per

the case of the appellants, there was heavy rain accompanied by storm on the alleged day of occurrence but it was the duty of the appellants to disconnect the electricity supply. It is relevant to mention here that PW-3, Yogi @ Yogesh had informed the appellants about broken wire, however, none of the officials went to the spot to take any step to avoid any untoward incident.

7 Considering all the facts and circumstances of the case, this Court finds that the contentions raised on behalf of the appellants have no merit as these amply prove the negligent act of the appellants. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

These are pure findings of fact. No question of law, much less the substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

29.03.2016
sumit.k

(JITENDRA CHAUHAN)
JUDGE