

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

RSA-2488 of 2015 (O&M)

Date of decision: 13.01.2016

Sunita and others

...Appellants

Versus

SDO, DHBVNL and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vivek Khatri, Advocate for the appellants.

Mr. Pardeep Rajput, Advocate for the respondents.

Jitendra Chauhan, J.

By way of the present appeal, the plaintiffs/appellants have assailed the judgment dated 26.02.2013, passed by Addl. District Judge, Hisar, upholding the judgment dated 22.03.2010, passed by Civil Judge (Jr. Divn.), Hansi, whereby the suit for compensation of the plaintiffs/appellants was dismissed.

It is contended by learned counsel for the appellant that both the Courts below have gravely erred in ignoring the oral as well as documentary evidence on the record. The deceased, husband of plaintiff No.1 had died due to electrocution while he

was standing on the roof of his house. The electric wire passing near the roof broke off and fell upon him as a result of which, he died on the spot. The deceased had been earning Rs. 20,000/- per month by running a milk dairy, however, both the Courts below have dismissed the suit of the appellants without going into this factual aspect of the matter. The learned counsel has relied upon S. Prem Singh and others Vs. State of J&K and others, 2001(5) RCR (Civil) 843, wherein it has been held that the height of electric wires from the ground is to be 20 feet whereas DW3 stated that in the present case, its height was 18 feet. Therefore, the learned counsel contends that the occurrence had taken place due to the negligence of the respondents.

On the other hand, the learned counsel for the respondents submits that both the Courts below have rightly dismissed the suit of the appellants as the deceased had died due to his own negligence. The learned counsel refers to the notice Ex.D1 dated 14.01.2008, vide which the deceased had been directed to stop the construction of his house or to obtain permission from the respondents. The official concerned from the Department-Nigam had also visited the site of construction to serve the said notice upon the appellants, however, the deceased had refused to accept the notice. Therefore, the deceased died due to his own negligence

while raising construction of his house in violation of the Indian Electricity Rules, 1956.

I have heard the rival contentions of both the parties.

The Court has perused the entire record. The appellants are seeking compensation on account of death of deceased, Baljit Singh, the husband of appellant No.1, and father of appellants No.2 and 3. Indisputably, the deceased Baljit Singh died due to electrocution on 14.04.2008 while he was standing on the roof of his house. DDR No.11 dated 14.04.2008 was registered to this effect by the brother of the deceased Sunil stating that his brother gone to the roof to bring 'tasla' and his head came in contact with electric wires running across the roof of the house. Upon hearing an explosion, he went to the roof and found his brother lying there with marks on his head, waist and feet. The factum of broken wire was not recorded in the DDR. There is no evidence to show that the notice was not served upon the deceased nor any malafide has come on record. Further, the deceased had been raising construction close to an electricity supply line of 11 KV.

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 criminal and negligent act of the deceased. No evidence is shown to have been

ignored from consideration, nor there is any misreading of evidence. In Kashmir Singh Vs. Harnam Singh and another, 2008(2) RCR (Civil) 688, it has been held as under:-

“17. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to 'decision based on no evidence', it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

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. The case law cited by learned counsel for the appellants are distinguishable on facts and will not apply in the present case.

Dismissed.

13.01.2016

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(JITENDRA CHAUHAN)
JUDGE