

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.4087 of 2017 (O&M)
Date of Decision: 29.08.2017

Dakshin Haryana Bijli Vitran Nigam & others

... Appellants

Versus

Santosh Devi and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anil Chawla, Advocate,
for the Appellant.

ANIL KSHETARPAL, J. (ORAL).

CM 10537-C of 2017

This is an application for making good the deficiency in Court fees.

Allowed as prayed for, because the deficiency in payment of Court fee has already been made good. Delay, if any, is condoned.

CM 10538-C of 2017

For the reasons stated in the application, the same is allowed and delay of 68 days' in filing the present appeal is condoned.

Main Case.

Defendants are appellants in this Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiffs filed a suit for damages on account of death of Sh. Raje Ram due to electrocution on 31.05.2011. It was asserted by the plaintiffs that on 31.05.2011, deceased Raje Ram along with his son were sitting in their plot. Due to strong winds, a branch of the tree broke and fell

on the live electric cable. The said live electric cable snapped, thereafter,

fell on Raje Ram and due to electrocution, he died. The defendants in their written statement pleaded that the electricity supply was disconnected and Raje Ram had died due to current received from the inverter maintained by the family of Raje Ram at their house.

The learned trial Court after appreciating the evidence available on the file, decreed the suit filed by the plaintiffs and assessed the damages to the tune of Rs.57,62,317/- along with interest at the rate of 12% p.a. from the date of the incident till realisation of the amount.

The defendants-appellants filed the first appeal. The learned first Appellate Court after reappreciating the evidence available on the file, dismissed the appeal. However, the learned first Appellate Court reworked the compensation payable to the plaintiffs as damages and awarded a sum of Rs.43,21,700/- along with interest at the rate of 7.5% p.a.

The defendants are in Regular Second Appeal. It is unfortunate that a human life was lost due to poor maintenance of facility by a public sector undertaking. It is concurrently found by the Courts below that the appellants failed to prove their defence. The Courts have further found that the defendants-appellants failed to prove that supply of electricity was disconnected and Raje Ram died due to electrocution on account of the current received from the inverter. No expert having specialised knowledge has been examined by the appellants to prove that Raje Ram died on account of electricity current generated by domestic inverter.

Learned counsel for the appellants has argued that under the Fatal Accident Act, 1855, the plaintiffs were required to prove that there was some neglect on the part of the appellants. In the absence of any neglect, the Courts could not have awarded the compensation.

I have considered the argument of the learned counsel for the appellants. The Fatal Accident Act, 1855 deals with three eventualities (i) Wrongful Act, (ii) Neglect and (iii) Default. In the present case, the electricity cable was passing through from the front of the house of the plaintiffs. Due to strong winds, a branch of the tree fell on the live electric cable which in turn fell on the deceased. In these circumstances, it is the neglect of the appellants because it is the duty of the appellants to maintain not only the electricity supply but also infrastructure in proper manner. It is the duty of the employees of the appellants/Corporation to ensure that the trees are grown and pruned in time in such a manner that the branch of tree does not fall on the electricity cable.

Learned counsel for the appellants has further argued that the Courts could not have awarded interest on the damages assessed.

I have considered the submission of the learned counsel for the appellants. The incident took place on 31.05.2011. The amount of damages became payable on 31.05.2011. Till date, the payment has not been made. In these circumstances, the Courts below were justified in awarding the damages along with interest.

For the reasons recorded above, I do not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

29.08.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No