

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4987 of 2016 (O&M)

Date of Decision: December 05, 2018

Rani & others

...Appellant

Versus

The Managing Director, Uttar Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

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

AMIT RAWAL, J. (Oral)

Appellant-plaintiffs have not been successful in getting the compensation/liquidated damages against the electricity department on account of unfortunate death of Raghbir Singh @ Raghubir Singh on 09.07.2013 due to electrocution.

It was alleged that Raghbir Singh @ Raghubir Singh along with his family members consisting of plaintiffs were living in a Dera of Village Kapron. Due to the bad weather and rain, electricity pole, transformer and jumper installed in the field of Raghbir Singh @ Raghubir Singh were broken and had fallen down on the earth. Information to this effect was given to the Electricity Department on 10.07.2013 in writing by Ved Parkash, but the department did not bother to rectify or cut off the electricity supply and on their assurance, undertook the agricultural work. It is on account of that, Raghbir Singh @ Raghubir Singh suffered electricity shock from the broken pole. An FIR No.391 dated 10.07.2013 under Section 304A

IPC was registered with Police Station Gharaunda.

Defendants opposed the suit and stated that defendant No.4 got permit No.58 on 11 KV Kapro AP Feeder dated 09.07.2013 from 132 KW Sub Station Munak for repairing the damaged electric lines and to attend the breakdown of the supply owing to the wind storm. The permit was obtained at 19.30 on 09.07.2013. Some part of the work was completed and other permit No.65 dated 10.07.2013 was issued. Defendant No.2 at about 2.00 PM got information from Bishambar Lal JE that a private person on the Kapro AP Feeder had erected illegal electricity line and there was some mishap. On acquiring illegal erection, which resulted into electrocution of Raghbir Singh @ Raghubir Singh, FIR was lodged against Jasmer Singh.

On the preponderance of the evidence, the trial court dismissed the suit. Appeal taken before the Lower Appellate Court was also dismissed.

Mr. Parminder Singh, learned counsel representing the appellant-plaintiffs submitted that respondent-defendants had attempted to fasten negligence upon Jasmer Singh by lodging an FIR, but the fact of the matter is that it was the duty of the electricity department to repair the electric wires which resulted into unfortunate death of Raghbir Singh @ Raghubir Singh. The factum of both bad weather and breaking of the electric wire was not in dispute. The electric wires, if broken, were to be rectified by the electricity department. Even the age and income of the deceased had also been proved.

I am afraid that the aforementioned argument is not sustainable, for, the contents of the FIR Ex.D6 and the letter Ex.D4 revealed that the electricity department of Haryana had lodged an FIR against Jasmer Singh regarding illegal erection of some electric line. It was on account of

negligence and unauthorised act of Jasmer Singh. In such circumstances, the liquidated damages by attributing the negligence to the defendants has rightly been discarded. The plaintiffs were required to establish on record the negligence through substantial and direct evidence. Moreover, Jasmer Singh was not impleaded. In such circumstances, the courts below have no other occasion but to decline the relief.

For the reasons stated above, the concurrent findings of fact and law arrived at by the courts below cannot be faulted with. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

December 05, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No