

RSA No.5655 of 2014

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

**RSA No.5655 of 2014
Date of Decision.11.01.2018**

Uttar Haryana Bijli Vitran Nigam Ltd. and othersAppellants

Vs

Surjit Kaur and othersRespondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pardeep Singh Poonia, Advocate
for the appellants.

Mr. Rajinder S. Rana, Advocate
for the respondents.

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AMIT RAWAL J.(ORAL)

The present appeal has been preferred against the concurrent finding of fact rendered by both the Courts below in suit seeking recovery of an amount of ₹10 lacs on account of the death of 36 years old namely Nirmal Singh, who unfortunately died of electrocution after having coming in contact with live wire which was lying broken on the road.

Mr. Poonia, learned counsel appearing on behalf of the appellant submitted that the plaintiffs miserably failed to prove the case for compensation of ₹10 lacs as awarded by the trial Court and upheld by the lower Appellate Court. No proof of income, age or other material has been placed on record for arriving at aforementioned compensation. This Court while issuing notice of motion had confined the argument on the ground of quantum only.

He further submitted that in the absence of any criteria prescribed for assessing the compensation, the principles as enunciated

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under the Motor Vehicles Act were required to be followed by the Courts below for the purpose of determining the compensation. The deceased was aged 36 years old and was a Labourer and at that point of time, a skilled labour was getting ₹4300/- per month, therefore, by providing 40% increase as future prospects, deducting 1/3rd towards expenses and adopting a multiplier of 15, the compensation cannot be more than ₹7,92,400/- including the amount of ₹70,000/- on account of conventional heads i.e. loss of consortium, loss of estate and funeral expenses in view of the *ratio decidendi* culled out by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 ACJ 2700.**

All these aspects were not taken into consideration by both the Courts, thus, there is illegality and perversity in the judgments and decrees passed by both the Courts below and are liable to be set aside.

Per contra, Mr. Rajinder Singh Rana, learned counsel appearing for the respondents-plaintiffs submitted that the factum of live wire broken on the road has not been controverted by the appellant. The vicarious liability, thus, was writ large and therefore, compensation of ₹10 lacs for death of a young man of 36 years is fair and just and cannot be tinkered with. The entire compensation has already been received by the plaintiffs and therefore, there is hardly any scope of interference as no substantial question of law arises for determination of this Court.

I have heard learned counsel for the parties and appraised the paper book. The factum of death on account of electrocution after having coming into contact with live wire is not disputed. The only issue which is to be pondered upon is whether the Courts below were justified in granting the compensation of ₹10 lacs as claimed by the plaintiffs without applying

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the principles enunciated by various Courts for the purpose of determining compensation as in cases of death occurred in road accident involving motor vehicles. In my view, same principles are applicable in this case as well.

The deceased aged 36 years was a labourer and at that relevant point of time minimum wages for a skilled labour were ₹4300/-. Therefore, I will take the income of the deceased ₹4300/- per month and further provide 40% increase on the same, deduct 1/3rd towards personal expenses and adopt a multiplier of 15 to assess a compensation of ₹7,92,400/- including the amount of ₹70,000/- on account of conventional heads i.e. loss of consortium, loss of estate and funeral expenses. This amount shall also entail interest @6% from the date of filing of the regular second appeal.

Since the amount as awarded by both the Courts below has already been withdrawn, it shall be open to the parties to submit their calculations, if required, for the purpose of claiming refund or otherwise in accordance with law.

In view of the above, the judgments and decrees passed by both the Courts below are modified to the above extent. Resultantly, the regular second appeal is disposed of in the above terms. The decree sheet shall be prepared accordingly.

(AMIT RAWAL)
JUDGE

January 11, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No