

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

RSA No.2414 of 2018 (O&M)

Date of Decision: 21.05.2018

PSPCL and others

---Appellants

Versus

Ranjit Kaur

---Respondent

**Coram: Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present: Mr. Vinod S. Bhardwaj, Advocate for the appellants.**

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**HARINDER SINGH SIDHU, J.**

The defendants-appellants have filed this appeal against the judgment of the learned District Judge, Rupnagar, whereby, the appeal of the plaintiff-respondent was allowed and the judgment and decree of the learned trial court, dismissing the suit was set aside.

Along with this appeal the appellants have filed an application for condonation of delay. For the reasons stated therein the application is allowed and the delay of 17 days in filing the appeal is condoned.

The plaintiff filed a suit for recovery of Rs.10 lacs against the defendant/appellants-Punjab State Power Corporation Limited (for short "PSPCL"). It was pleaded that Gurpreet Singh deceased was her son. He was an agriculturist and was cultivating the land of one Jasbir Singh which he had taken on lease. He had sown paddy crop on it. There was an electric pole installed by the PSPCL near the said land. The said electric pole had been erected with the help of an un-insulated wire tied to a tree. On 30.6.2011 when he was irrigating the land he came in contact with the supporting un-insulated wire, due to which, he was electrocuted and died at the spot. The post-mortem examination established that the cause of death

was accidental electrocution. Alleging that Gurpreet Singh was electrocuted because of the negligence on the part of PSPCL due to faulty erection of electric pole by tying it to a tree with un-insulated wire, the suit claiming damages of Rs.10 lacs was filed.

It was pleaded that the deceased was a young and hardworking person. He was earning about Rs.20,000/- per month. The plaintiff was wholly dependent on his earnings as she had no source of income.

The defendants filed written statement denying their liability. It was denied that the electric pole had been erected by the defendants or their employees. It was pleaded that on 30.6.2012, Dilpreet Singh, A.E. (SDO) Chamkaur Sahib had received information regarding the incident. He immediately went to the spot along with Sada Ram A.E.E., Amarjit Singh J.E. and Balwant Singh J.E. A Report of the incident was prepared as per which there had been storm in the area in which many electricity poles and wires were damaged. Pole of LT supply from where connection bearing No.TS-3 was issued was also damaged. The owner of the land being cultivated by the deceased had intimated the authorities of PSPCL about the damage. But as in that area only one pole had been damaged, whereas, in another area about 300 connections had been affected the staff of the defendants was busy in restoring the connections in the area where there was greater damage. Gajjan Singh owner of the land was informed that the defendants would send someone for installation of a new pole on the next day. But Gajjan Singh and his companions got issued one electricity pole against the damaged pole and without waiting for the officials of the PSPCL, Joga Singh and Karnail Singh companions of Gajjan Singh, un-

authorizedly and negligently, on their own, installed the pole at some other place. As they were not technical persons they installed the wires at a height much below the standard height which resulted in the accident.

The Learned Trial Court dismissed the suit holding that the plaintiff had not been able to establish that the electric pole with un-insulated wire had been installed by the defendants. To the contrary, the inquiry report of the defendants, which was proved on record, clearly established that the pole had not been installed by any official of the defendants but had been installed by Joga Singh and Karnail Singh unauthorizedly, on their own and the accident had been caused as the height of the wires had been kept lower than the standard height.

The plaintiff filed an appeal which was allowed.

Learned Lower Appellate Court noted that it had been admitted by the defendants that the owner of the land had come to them with a complaint of damage to the electric pole and requested that a new pole be installed so that the electricity supply to his tube-well is restored. It was also noted that the defendants had admitted that no official accompanied the owner to the site but a new pole was issued to him. The defendants case was that while issuing the pole, they had instructed Gajjan Singh (owner of the land) that their staff would come the next day to install the pole as they were busy in repairing 300 other connections which were also damaged in the storm.

The learned lower appellate court held that the first act of negligence of the defendants was in issuing a new pole to the owner. DW1 Sada Ram A.E.E. in his cross examination admitted that electric poles of the

department are required to be taken and installed by its officials. DW-2 Amarjit Singh JE also admitted that the pole was to be installed at the spot by the officials of the defendants. He also admitted that the pole had been installed with supporting cable which was without insulation and that the supporting cable was tied with a tree to erect the pole. He also admitted that Gurpreet Singh had died due to electrocution while working in the field because of the use of un-insulated cable to erect the pole. Besides the act of negligence in issuing the electric pole to the owner of the land there was another grossly negligent act on the part of the officials of the PSPCL in not immediately disconnecting the power supply to prevent any mishap. Learned Court noted that once the officials of the defendants were informed that the original pole was damaged due to the storm, the immediate and primary duty on their part was to disconnect the flow of electricity so as to avoid any untoward incident. Instead of doing so, they issued a new pole to the owner which ought not to have been done as it was their duty to take the pole and install it through their technical staff. The learned lower appellate court held that the pole ought not to have been issued to the owner and the defendants ought to have anticipated that the owner may reinstall it on his own. The Court has relied on a decision of Hon'ble Supreme Court in **M.P. Electricity Board Vs. Shail Kumari 2002(2) SCC 162** and held that negligence of the defendants was writ large in the facts of the case. The appeal was allowed and the judgment of the trial court was set aside.

Taking note of the fact that the deceased had died while working in the fields and that he had taken land on lease, the learned lower appellate court assessed his income at Rs.10,000/- per month considering

that the minimum wages were about Rs.8000/- per month. As the deceased was bachelor, one half was deducted on account of personal expenses, multiplier of 18 was applied (as the deceased was 25 years of age). The total loss was assessed as Rs.10,80,000/-. But considering that the plaintiff had claimed only Rs.10 lacs, the suit for recovery of damages as compensation to the tune of Rs.10 lacs along with interest at the rate of 6% per annum from the date of institution of the suit till realization was decreed. As the appeal had been filed as an indigent person, it was directed that the court fee shall be a first charge on the decree.

Learned counsel for the appellant has argued that as admittedly the electric pole had not been installed by the officials of the defendants, the findings of negligence against the defendant cannot be sustained. There is no merit in this submission. The learned lower appellate court had already noted the two fold negligence of the defendants due to which a life was lost, firstly, their act of issuing a new electric pole to the owner of the land and secondly, in not immediately disconnecting the electric supply despite being informed about the damage to the pole. The liability of the Electricity Boards in such matters is well settled. The Ld. Lower Appellate Court has rightly relied on decision of Hon'ble Supreme Court in **Shail Kumari's** case (supra).

Thus, there is no merit in the appeal, both on facts and in law.

Dismissed.

May 21, 2018

( **HARINDER SINGH SIDHU** )  
**JUDGE**

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| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |