

RSA No.4665 of 2017 (O&M)

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

RSA No.4665 of 2017 (O&M)
Date of decision: 11.01.2018

Ved Singh

.....Appellant

versus

Birmati and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Rajesh Bansal, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Defendant No.1 through this Regular Second Appeal has assailed the judgment and decree dated 21.08.2017 of the First Appellate Court holding the appellant liable to pay 50% of the damages/compensation of ₹ 5,43,400/- along with interest @ 7.5% per annum from the date of institution of the suit till final realization, while reversing the judgment and decree dated 20.04.2015 of the trial Court.

Put pithily, respondents No.1 to 4 claiming themselves to be indigent persons and legal heirs of deceased Darbara Singh filed a suit for recovery of ₹ 8,00,000/- along with interest against the appellant as well as officials of the Uttar Haryana Bijli Vitran Nigam, Panipat (respondents No.5 and 6 herein) on the allegations that on 15.03.2004 Darbara Singh a mason, on the instructions and assurance of the appellant that there was no danger from the electricity line passing over his house went to the terrace for fitting a water tank and got electrocuted and died due to running of current in the

RSA No.4665 of 2017 (O&M)

electricity line. Therefore, the death of Darbara Singh had occurred on account of gross negligence of the appellant as well as respondents No.5 and 6.

The trial Court, after taking written statement of the appellant and that of respondents No.5 and 6, framing the issues and recording evidence to the satisfaction of both the sides, while deciding issue No.1 against respondents No.1 to 4 and remaining issues against appellant and respondents No.5 and 6, dismissed the suit with no order as to costs vide judgment and decree dated 20.04.2015.

Being aggrieved, respondents No.1 to 4 – plaintiff preferred an appeal, which, after hearing, was accepted partly thereby directing the appellant to make payment of 50% of the compensation amount and remaining by respondents No.5 and 6.

Learned counsel for the appellant contends that there was no iota of evidence on the record regarding engagement of deceased Darbara Singh by the appellant, therefore, the First Appellate Court has erred in fastening liability of payment of 50% of the compensation amount upon the appellant. Even otherwise, the entire liability, if any, ought to have been fastened upon respondents No.5 and 6, who, being negligent in discharging their official duty, had left electricity wires loose and open without proper maintenance, which led to the death of Darbara Singh. Unnecessarily, much weight has been given to the statement of PW3 Parveen, who was an interested witness being nephew of deceased Darbara Singh, despite the fact that his presence at the spot was doubtful.

Having given thoughtful consideration to the submissions made

By learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the reasons to follow.

RSA No.4665 of 2017 (O&M)

It is not disputed that high-tension electricity line of 11000 KV was passing overhead the house of the appellant. The stand of respondents No.5 and 6 in their written statement is that the said electricity line was already in existence prior to the construction of his house by the appellant. Even if the statement of PW3 Parveen is ignored or not taken into consideration, then also there is ample evidence on the record to fasten the liability on the appellant, which has rightly been done so by the First Appellate Court for his gross negligence inasmuch as DDR No.32 dated 15.03.2004 (Ex.PW6/A) was recorded by the police on the very date of the accident in which deceased Darbara Singh got electrocuted in the house of the appellant. Author of the aforesaid DDR PW6 ASI Rajbir Singh and PW5 Dharampal, on whose statement the said DDR was recorded, proved that deceased Darbara Singh was working in the house of the appellant and on his assurance had started working on the terrace, where overhead 11000 KV electricity line was passing.

DW3 Ashwani Kumar, SDO, Uttar Haryana Bijli Vitran Nigam, Madlauda, in his cross-examination had also categorically admitted that on the relevant date through his Junior Engineers of the area he had come across the fact of death of Darbara Singh due to electrocution with 11000 KV line at the spot, which has now been shifted to some other place. This witness further in clear and unequivocal terms testified that his Junior Engineer had told him that deceased Darbara Singh was doing the job of pipe fitting at the roof top of the appellant. Therefore, it is established on the record beyond any doubt that deceased Darbara Singh at the time of his electrocution and death was working on the terrace of the appellant.

RSA No.4665 of 2017 (O&M)

distance in between the roof top and high-tension line of 11000 KV. He raised his house upto the level of danger zone and despite that he assured the deceased that it was quite safe for him to do the plumbing job.

The amount of compensation calculated by the First Appellate Court is also logical and genuine. More-so, no question of law muchless substantial question of law arises for consideration in this appeal.

Resultantly, this appeal being devoid of any merit, is hereby dismissed with costs of ₹ 10,000/- to be deposited with the District Legal Services Authority, Panipat.

Copy of this order be sent to the Member Secretary, District Legal Services Authority, Panipat, for recovery of costs.

(Ramendra Jain)
Judge

January 11, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.