

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

**PRESENT
THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

APPEAL SUIT NO: 1246 OF 2001

Appeal under Section 96 read with Order 41 Rule-I CPC against the Judgment and decree dated 22.03.2000 in OS No. 51 of 1994 on the file of the Court of the 1st Additional Senior Civil Judge, R.R.Dist., at NTR Nagar, Hyderabad.

Between:

APTRANSCO (APSEB), Rep by its Chairman, Vidyut Soudha, Punjagutta, Hyderabad.

...APPELLANT

AND

1. Jallipalli Chandra Sekhara Rao, S/o Narsimha Rao, Bank Employee
2. Jallipalli Rana Naren, S/o Chandra Sekhar Rao, aged 29 years, major,
3. Jallipalli Nivedita, D/o Chandra Sekhar Rao, aged 27 years, Major
(All are R/o. 12-19, Rajiv Nagar, Nachanram, Hyderabad) (R.R.District)
(No.2 & 3 being Minors rep. by their father and natural guardian i.e.,
J.Chandra Sekhara Rao)
(RR2 and 3 being majors as per the Hon'ble Court Order dated 21/06/2013
made in ASMPs NO.1139 & 1140 of 2013 respectively)

...RESPONDENTS

CMP. NO: 25599 OF 2000

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to stay all further proceedings of the judgment & decree in OS No. 51 of 1994 in EP No. 92 of 2000 on the file of the 1st Additional Senior Civil Judge, R.R.Dist Dist., dt. 23.3.2000.

For the Appellant : SRI JALLI SIDDAIAH, Advocate

For the Respondents : SRI K.VINAYA KUMAR, Advocate

The Court delivered the following : JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

A.S.No.1246 of 2001

JUDGMENT :

Aggrieved by the judgment in O.S.No.51 of 1994, on the file of I Addl. Senior Civil Judge, Ranga Reddy District, the defendant therein preferred the present appeal against the judgment and decree dated 23-03-2000 in the above said suit.

2. O.S.No.51 of 1994 has been filed by three plaintiffs, who are husband and children and one Vanaja Lochana, who died due to electrocution on 13-08-1993, and they filed the said suit against the appellant herein i.e., State Electricity Board seeking compensation on the ground that the said Lochana died due to the fall of live electric wire and as she suffered electric shock. The suit was decreed by the trial Court and the appellant herein was directed to pay Rs.2,05,000/- with interest @ 6% per annum from the date of suit till realization with a direction for proportionate distribution of the compensation amount on the first plaintiff,

husband of the deceased and other plaintiffs, who are no other than her children.

3. According to the brief case of the plaintiffs in the above suit, it shows that on 13-08-1993, V.Lochana hereinafter will be referred as deceased was travelling on the Scooter as a pillion rider with the second plaintiff and the Scooter was driven by her close relative. While they were on the way and reached Nacharam Cross Roads, near Rajiv Nagar, one electric wire snapped all of a sudden and directly came in contact with the deceased, dragged her from the Scooter on account of which, she fell down on the ground and died on the spot. The brother-in-law of the deceased, who was residing nearby came and tried to remove the wire from the body of the deceased with the help of a wooden stick. She was immediately shifted to local Doctor, who pronounced her brought dead. It seems, a complaint was lodged before police, Nacharam, and a case in Crime No.92/93 under Section 174 of Cr.P.C. was registered. The Medical Officer, who conducted post-mortem on the dead body opined that the death was on account of electrocution. The plaintiffs have filed the suit alleging that the accident occurred on account of

the negligence of the officials of the appellant herein. The death of the deceased deprived plaintiff No.1 conjugal life and all the plaintiffs were deprived of love and affection of the deceased. They have also claimed that she was a Graduate, she has undergone training as a Beautician and earning Rs.2,000/- per month, thereby they sought for a sum of Rs.5,00,000/- as compensation.

4. The appellant herein contested the suit, filed written statement denying all the material averments of the plaint including the alleged accident, negligence attributed to the officials and sought for dismissal of the suit on the ground that the accident was an 'act of God' and there was no such negligence of appellants, thereby, they are not liable to pay any compensation.

5. The trial Court framed four issues. The plaintiffs have examined three witnesses and marked Exs.A1 to A8. None were examined on behalf of defendant i.e., appellant herein. The trial Court having accepted the plea of plaintiffs, decreed the suit in part by directing the defendant to pay Rs.2,05,000/- as stated above.

6. The defendant wherein filed the present appeal on the following grounds :

The judgment and decree passed by the Court below is an *ex parte* judgment. Though there is no such mention in the judgment while explaining their absence before the trial Court, the appellant has pleaded that there was change in the Standing Counsel, thereby, they could not represent before the trial Court but the trial Court ought to have seen that only a written statement was filed by the appellant herein and it was not in the knowledge of subsequent Standing Counsel. The matter went unilateral and as such, an *ex parte* order was passed, thereby, it is illegal, arbitrary and the same is liable to be set aside. The appellant has further pleaded that the version of the Court below that inspite of giving an opportunity, the defendant did not examine any witness established the matter went unilateral and there was no representation on behalf of appellant herein as such, the judgment cannot stand in the eye of law. They have also pleaded that the trial Court ought to have issued a notice to the defendant when there was no representation for them.

7. The appellant further contended that the trial Court ought to have seen that if at all the accident took place as alleged by the plaintiffs, the driver of the Scooter could also have suffered injury. Therefore, according to the appellant, there was no such accident and the judgment is liable to be set aside.

8. I have heard the learned counsel for the appellant.

9. Now the point for consideration in the present appeal is :

1. Whether the appellant was not given proper opportunity to contest the suit ?
2. Whether the judgment even *ex parte* judgment, thereby, liable to be set aside as prayed for ?

10. According to the judgment under challenge, it is quite clear that the suit was filed with a specific allegation that the deceased suffered electrocution when a live electric wire snapped and fell on her, dragged her, thereby, she fell on the ground, suffered electric shock and died on the spot. It seems a complaint was lodged before police admitting Ex.A1 certificate issued by S.H.O. Nacharam shows the said registration of the crime. As per the post-mortem report, it is

quite clear the deceased died due to electrocution. According to the findings of the trial Court, it shows that the husband of the deceased was examined as PW.1 and he deposed about the actual incident and about the death of his wife. The judgment further shows that PW.1 was examined in chief on 25-01-2000 and the matter was adjourned to 22-02-2000 for cross-examination. The plaintiffs have examined PW.2 on 10-02-2000 but the defendant i.e., appellant herein did not choose to cross-examine these two witnesses. The Court below categorically found that inspite of opportunity given to the defendant, they did not cross-examine the witnesses thereby, the evidence of PWs.1 and 2 remain unchallenged. The plaintiffs have produced evidence to believe that prior to the above referred accident, one live electric wire got snapped and fell on a buffalo and it died and there was another incident of snapping of the wire. The evidence of the witnesses examined for plaintiffs was un-rebutted.

11. The Court below having placed reliance on the judgment reported in '**M.Bheemavva and Others Vs. A.P.S.E.B.**¹' came to the conclusion that there was an accident in which a live electric wire got snapped and fell on

¹ 1998 (1) ALT page No.67

the deceased causing instantaneous death of the deceased and incident occurred due to the negligence of the officials of the appellant herein. Therefore, they are liable to pay compensation for the loss caused to the plaintiffs. Simply because there was a change in the Standing Counsel, the appellant herein cannot escape the liability. Even if there is such a change, it is for them to give suitable instructions to the next Standing Counsel and got the cross-examination of the witnesses done. There is nothing on record to believe that there was sufficient cause by which the appellant herein was prevented from cross-examining PWs.1 to 3 and from producing evidence in support of the plea taken in the written statement. Absolutely there is no material before the Court to show some sufficient cause which can prevent the appellant herein from adducing evidence. Therefore, the grounds taken by the appellant are not sufficient to reverse the judgment of the trial Court. The Court below having considered all the aspects awarded a sum of Rs.2,05,000/- together with costs and interest. As could be seen from the record, the said amount was already deposited and respondents/plaintiffs

were permitted to withdraw the said amount. I see no merits in the appeal, thereby, the appeal is liable to be dismissed.

11. In the result, the appeal is dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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Sd/-B.S.CHIRANJEEVI
JOINT REGISTRAR


SECTION OFFICER

To

1. The I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad. (with records)
2. One CC to Sri Jalli Siddaiah, Advocate [OPUC]
3. One CC to Sri K.Vinaya Kumar, Advocate [OPUC]
4. Two CD Copies

 KJ.

HIGH COURT

DATED:18/07/2022

JUDGMENT

AS.No.1246 of 2001



DISMISSING THE AS WITHOUT COSTS.

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19/12
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...RESPONDENTS

Appeal under Section 96 read with Order 41 Rule-I CPC against the decree of the Court of the 1st Additional Senior Civil Judge, R.R.Dist., at L.B.Nagar, in OS No. 51 of 1994.

ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and decree of the Lower Court and the material papers in the suit and upon hearing the arguments of Sri Jalli Siddaiah, Advocate for the Appellant and of Sri K.Vinaya Kumar, Advocate for the Respondents

This Court doth Order and decree that this Appeal is dismissed.

This Court doth further Order and decree that there be no order as to costs in this Appeal Suit.

Sd/-B.S.CHIRANJEEVI
JOINT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To

1. The 1 Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar,
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2. Two CD Copies

Kj.



HIGH COURT

DATED:18/07/2022

DECREE

AS.No.1246 of 2001

DISMISSING THE AS WITHOUT COSTS.

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19/12
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