

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

APPEAL SUIT No.1345 of 2002

JUDGMENT:

This appeal suit is filed against the Judgment of the trial Court in O.S.No.08 of 1996 dated 18.12.2001.

2. Plaintiffs filed suit for claiming damages of Rs.1,00,000/- for the loss of life of their daughter namely Olugathula Laxmi against the defendants. Plaintiff No.1 is the mother and Plaintiff No.2 is the husband of the deceased Laxmi, aged 19 years. The deceased was picking fossils of pigs near mission, compound area. While so, she came into contact with a live electric wire lying on the public road and got electrocuted. Immediately, she was shifted to the hospital of Jagtial, but declared as dead. The P.S, Jagtial registered a case in Cr.No.18 of 1995 and issued F.I.R on 25.09.1995. The Police conducted inquest panchanama, postmortem was also conducted and it was held that she died due to electrocution. The grievance of plaintiffs is that there is a grave negligence on the part of the defendants and improper maintenance of electric supply wires and thus she contacted with the live electric wire and died on the spot.

3. Defendant Nos.2 and 3 in their Written Statement contended that the plaintiff No.1 is not the legal heir of the deceased, as such she is not entitled to claim any damages. Deceased herself is dependent on income of her husband. As such he cannot claim any damages for the loss of life of his wife. They also stated that there was no negligence on their part. On 25.01.1995 there was heavy gale and whirl wind in Jagtial town. As a result, the phase conductor of LR 3 phase 4 wire line on SS – 32, 100 KVA near Mission compound was snapped and fell on heap of stones on the road side. The fuse at the transformer did not blow off due to improper earthing as the conductor fell on the stones. The deceased instead of walking on road for picking fossils, she went to the heap of stones and came into contact with live wire and received electric shock and died on the spot and thus death occurred due to negligence and carelessness of the deceased. This snapping of the conductor is due to heavy gale and whirl wind which is an act of God and not within the control of the defendants and it is accidental. Therefore, defendants are not liable to pay compensation. Defendants also stated that notice under Section 33 of the Indian Electricity Act is mandatory. It is not issued prior to the filing of the suit and thus suit itself is not maintainable. A

preliminary report was sent by the ADE/OT/APSEB about the accident on 25.01.1995 at 6:00 hours. It was received in the office on 01.03.1995. The said accident was investigated on 28.03.1995 and Rule 5(4) notice was served on 25.04.1995.

4. The trial Court considering evidence and arguments of both sides held that deceased was aged about 19 years, plaintiff No.1 was aged 40 years, plaintiff No.2 was aged 25 years. The annual earnings of the deceased at the time of her death was Rs.7,200/-. Out of which she may be spending a sum of Rs.2,400/- per annum on her dependents. The dependency of the plaintiffs No.1 and 2 on the earnings of the deceased can be a reasonably assured for about 10 to 15 years only and thus awarded compensation of Rs.50,000/- (Rs.25,000/- to each of the plaintiffs) with interest @ 9% per annum from the date of the suit to till the date of realization. Aggrieved by the said order, the Electricity Board preferred an appeal and mainly contended that there is no negligence on their part. The accident was occurred only due to heavy gale and whirl wind in the town of Jagtial on 25.01.1995. But, the trial Court erred in compensating the liability on the Electricity Board and requested the Court to set aside the order.

5. The counsel for the appellants contended that the interest granted upon them is excessive and requested the Court to grant interest @ 6% per annum as the accident occurred in the year 1995 as per the prevailing rate of interest at that time. Whereas, the respondent counsel contended that the deceased was aged about 19 years at the time of accident. The trial Court rightly granted the compensation and also interest and it needs no interference.

6. It is the admitted fact that there was heavy gale on 25.01.1995. But, as far as this case is concerned the deceased came in contact with a live wire and died due to electrocution and it is for the Electricity Department to maintain the wires properly immediately after gale but they failed to do so. The argument of the counsel for the appellants that she was negligent in walking on the heap of stones instead walking on the road is not tenable. Thus, this Court finds no reason to interfere with the order of the trial Court in granting the compensation as far as the interest is concerned, there is no prayer in the appeal of the appellant regarding deduction of the interest amount as argued by the counsel for the appellants.

Therefore, this Court finds that it is just and reasonable to confirm the order of the trial Court.

In the result, the appeal is dismissed confirming the order of the trial Court in O.S.No.08 of 1996 dated 18.12.2001.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE P.SREE SUDHA

DATED: .11.2022

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