

HON'BLE SRI JUSTICE A.SANTHOSH REDDY

APPEAL SUIT No.1399 OF 2000

JUDGMENT:

This appeal is directed by the defendant, A.P.Transco, against the decree and the judgment of the learned II Additional Senior Civil Judge, Warangal, in O.S.No.114 of 1996, dated 31.01.2000, granting a decree for Rs.2,10,000/- with interest and costs.

2. The parties herein are described as arrayed in the suit for the sake of convenience.

3. It is the case of the plaintiffs that, the respondents herein, that they are the legal representatives of Gouda Ravi. On 25.07.1995 at about 8.00 PM said Ravi along with Balugu Pochaiah, Katkari Vodelu and Smt.Balugu Saramma was passing through the road in Kurmawada of Varikole Village, the live electrical overhead line was snapped and fallen on the ground. They came into contact with it and all of them died on the spot. The Village Administrative Officer of Vorikole reported the matter to the police at Parkal and the same was registered as Crime

No.107 of 1995 and a copy of which was marked as Ex.A.1. An inquest and postmortem was also conducted confirming the death by electrocution. Exs.A-2 and A-5 are panchanama and Post-mortem report. Later the employees of the defendant-Corporation visited the spot and removed the hanging wire. The death of these persons was caused due to negligence and callousness of the defendant-Corporation in erecting and maintaining the overhead lines and its allied equipment in the village. The third plaintiff is the wife of the deceased and plaintiff Nos.2 to 5 parents and children of deceased, are dependant on the income of the deceased. It is stated that the deceased had participated in the agricultural operations and earning Rs.30,000/- per annum and contributed the same to the maintenance of the family. The deceased was aged about 24 years. Therefore, they claimed Rs.2,10,000/- towards damages.

4. The appellant/defendant-Corporation filed written statement denying the averments made in the plaint. The defendant also denied the factum of death of deceased by electrocution by coming into contact with live wire. The dead bodies were shifted by the

relatives of the deceased in undue haste. By the time officials of the defendant-Corporation visited, the dead bodies were shifted. During their inspection, there was no snapping of electrical lines and over hanging at any place. The death of deceased was not caused due to electrocution. The plaintiffs filed the above suit in order to gain money illegally. It is also stated that there was no negligence and callousness on the part of the officials of the defendant-Corporation in erecting or maintaining the electrical wires. Hence, the defendant prayed to dismiss the suit.

5. The plaintiffs, in proof of their case, examined the wife of deceased as PW.1 and examined Pws.2 and 3 and filed Exs.A.1 to A-6. On the other hand, the defendant-Corporation examined DW.1. No documents were marked on its behalf.

6. The trial Court after considering the evidence placed on record and in view of the admitted fact that deceased died due to electrocution arrived at the annual income of Rs.15,000/- and applying the decision reported in **Thirlok Chandra v. U.P.S.R.T.C.Corporation**¹ calculated loss of earnings at Rs.1,80,000/- and granted Rs.30,000/- towards loss of consortium

¹ 1996 A.C.J.831

and loss of estate, arrived at Rs.2,10,000/- and granted a decree for Rs.2,10,000/- with interest @ 12% per annum from the date of suit till the date of realization. Aggrieved by the said decision, A.P.Transco preferred this appeal contending that the trial Court failed to appreciate either fact or law in correct perspective. It did not consider the fact that there was no incident happened as narrated by the plaintiffs. There was no negligence leading to death of deceased. The compensation granted by the trial Court and also interest at higher side. Therefore, it prayed to set aside the judgment of the trial Court and allow the appeal.

7. The points that arise for determination are:

1. Whether late Gouda Ravi died due to electrocution on 25.07.1955?
2. Whether there was any negligence on the part of A.P.Transco in maintaining electric lines?
3. Whether the plaintiffs are entitled to any compensation? If so to what amount?

8. It is the case of the plaintiffs that live electrical over-head line got snapped and fallen on the ground and it was hanging and therefore, four persons namely; Balugu Saramma, Balugu Pochaiah, Katkari Vodelu along with deceased Gouda Ravi got

electrocuted. PW.1, who is the wife of deceased Gouda Ravi in her evidence specifically deposed that when the deceased was passing through the street of Kurmawada, he came into contact with live electric wire hanging at that particular place and was electrocuted. PW.2 who is the panch witness also supported the evidence of PW.1. However, the evidence of Pws.1 and 2 is convincing. DW.1 who is examined on behalf of defendant-Corporation has also not disputed the death of deceased along with three others due to electrocution. Therefore, the evidence of PWs.1 and 2 and DW.1 clearly establishes the fact that the deceased Gouda Ravi died due to electrocution.

9. So far as the negligence on the part of A.P.Transco in maintaining the electrical lines is concerned, the defendant examined DW.1 on their behalf. In the cross-examination, DW.1 admitted that Assistant Engineer filed preliminary report and final report. In his cross-examination, he admitted that "I do not remember whether it is mentioned in the preliminary report that wire got snapped and four persons were electrocuted due to it." In view of the fact that the report that was admittedly prepared was

not filed, the trial Court has drawn an adverse inference and found the contention of plaintiffs to be correct and the electric wire in fact got snapped there and four persons got electrocuted and held that there was negligence on the part of A.P.Transco.

10. In **K.G.Jagannath v. State Transport Appellate Tribunal, A.P.**², this Court held that burden is on the Electricity Board to prove that there was no negligence on its part. When the plaintiffs could prove that the death was due to electrocution, the burden of proof is on the defendant to prove that there was no negligence on its part.

11. It is settled law that in a 'claim' for damages in regard to fatal accident against A.P.State Electricity Board, the compensation could be worked out re-coursing to the provisions of the Motor Vehicles Act.

12. It is in the evidence of PW.1, who is the wife of deceased, that deceased Gouda Ravi was aged 24 years and participated in agricultural operations and was earning member of the family. PW.1 had deposed that her husband's annual income was Rs.30,000/-. PW.3 was also examined to show that deceased

² 1998(1) A.L.T. 67

Gouda Ravi used to take lands on lease and used to cultivate the land and used to get income out of it. Basing on the said evidence and also after taking into consideration of the provisions of the M.V.Act, that in the absence of any evidence, the income at Rs.15,000/- per annum can be fixed for a non-earning member, it has fixed the income of deceased at Rs.15,000/- per annum. Since the family of deceased was found to be ten, an amount of Rs.3,000/- towards personal expenses and thereby, the net income comes to Rs.12,000/- per year and the trial Court has granted an amount of Rs.1,80,000/- towards loss of earnings by applying reasonable multiplier. Besides that, the trial Court granted Rs.30,000/- towards loss of consortium and loss of estate altogether, it would come to Rs.2,10,000/-. Therefore, the trial Court has rightly granted Rs.2,10,000/- towards compensation and it cannot be said that the compensation awarded is on high side.

13. The plaintiffs did not file any cross appeal. The damages that were awarded are, therefore, reasonable. The trial Court after considering the entire evidence available on record, granted compensation of Rs.2,10,000/-. Therefore, the compensation is

adequate. There are no merits in the appeal and the same is liable to be dismissed.

14. Accordingly, the Appeal is dismissed. However, no costs. Miscellaneous applications, if any, pending shall stand closed.

A.SANTHOSH REDDY, J

20.10.2022

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