



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1263-1998 (O&M)

Reserved on : 17.07.2025

Pronounced on : 18.07.2025

KAMLESH RANI & ORS.

. . . . APPELLANTS

Vs.

HARYANA STATE ELECTRICITY BOARD AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ravinder Malik (Ravi),
Ms. Mamta Saini and Mr. Garvit Mittal, Advocates,
for the appellant.

Mr. Arvind Sethi, Advocate, for the respondents.

DEEPAK GUPTA, J.

Plaintiffs of the case are before this Court in the present Regular Second appeal against reversal, inasmuch as suit for recovery of damages to the tune of ₹2 lakh filed by them against defendants (*respondents herein*) was decreed by the trial Court on 02.09.1997, but the appeal filed by the defendants was accepted by the First Appellate Court on 17.01.1998, thus dismissing the suit of the plaintiffs-appellants.

2. Learned counsel for the parties have been heard at length. Trial Court record, as available on DMS, has been perused with the able assistance provided by counsel for both the sides.

3. To avoid confusion, parties shall be referred as per their status before the trial Court.

4. Plaintiffs are parents and siblings of Naresh Kumar (deceased). As per the averments of the plaintiffs, on 16.06.1989, Naresh Kumar along with his friends had gone nearly Soma Tea Stall at about 7:00 PM to have a

cup of tea. As he was passing near an electric poll, he came in contact with a stray wire, due to which he was electrocuted. He was taken to the hospital, where he was declared brought dead. It was alleged that defendants and its officials were negligent in discharging their duties, as they failed to provide any insulation to the stray wire, causing death of Naresh Kumar and as such, defendants were liable to make payment of ₹2 lakh as damages.

5. Defendants opposed the claim by denying the death of Naresh Kumar by electrocution; and contended that Naresh Kumar died natural death, as there was no burn injury on his person. They even denied installation of any poll near Soma Tea Stall and prayed for dismissal of the suit.

6. After framing of necessary issues and taking evidence produced by the parties, trial Court came to the conclusion that it was a case of negligence of the defendants and its officials, which resulted in the death of Naresh Kumar due to electrocution and so, they were liable to pay the damages. As such, suit was decreed. However, the Appellate Court took the view that death of Naresh Kumar was not proved to be due to electrocution and further Naresh Kumar himself was at fault, as he should have visualized in ordinary sense that a stray wire may be having current. As such, the appeal filed by the defendants was accepted and the suit was dismissed.

7.1 Assailing the findings of the Appellate Court, it is contended by learned counsel for the appellants-plaintiffs that there was ample evidence on record proving the death of Naresh Kumar by electrocution and the same was correctly appreciated by the trial Court, but the Appellate Court has analyzed the evidence in such a manner, as if the plaintiffs-appellants were required to prove the death of Naresh Kumar by electrocution beyond reasonable doubt.

7.2 Learned counsel has particularly drawn attention towards the testimony of eye-witnesses, who proved that Naresh Kumar had come in

contact with a stray wire connected to an electric pole, due to which he was electrocuted. Besides, postmortem report to be read with viscera report, clearly indicated that it was the case of death by electrocution.

8. On the other hand, learned counsel for the respondents-defendants, defended the view taken by the First Appellate Court to the effect that plaintiffs-appellants could not prove death of Naresh Kumar by electrocution.

9. Having considered submissions of both the sides, this Court finds merit in the appeal.

10. PW1-Gurshan Kumar is an eye-witness, who was accompanying the deceased Naresh Kumar, and Krishan, when they were going to have a cup of tea towards Soma Tea Stall. He clearly testified that on their way, Naresh Kumar came in contact with the stray wire of the electric poll, due to which he was electrocuted, fell on the spot and that on the hue and cry raised by them, someone disconnected the main line. They had taken Naresh Kumar to Civil Hospital, Ladwa, where he was declared brought dead. PW3-Som Parkash, the owner of Soma Tea Stall supported his testimony. PW5-Harbans Lal & PW8-Smt. Kamlesh Rani are the parents of the deceased, who deposed about the death of their son Naresh Kumar by electrocution, besides the fact that deceased was employed at Chopra TV and Radio repair shop at Ladwa and was earning ₹1400-1500 per month. It has also come in the testimony of PW8-Smt. Kamlesh that two of the minor siblings of the deceased are handicapped and that Naresh Kumar being the eldest child, was the sole bread earner of the family. PW2-Om Parkash was the employer of deceased, who supported the case of the plaintiffs.

11. Most material is the medical evidence on record. PW4-Dr. P.K. Goel had conducted the postmortem examination on the dead-body of Naresh Kumar and proved report (Ex.P1). According to him, there was no burn mark on the person of the deceased. PW7 Suresh, clerk to Chemical Examiner, produced the viscera report Ex.PW7/A. PW10 Dr. Swaran

Wadhwa testified that she along with Dr. P.K. Goel had conducted the autopsy examination of the dead body of Naresh. She proved report Ex.P1 and stated that Naresh Kumar had died due to electrocution. It has further come in her testimony that they had sent viscera in the laboratory and as per viscera report (Ex.PW7/A), poison test was negative. However, viscera was found congested, which is possible in case of poisoning or electrocution.

12. In view of the aforesaid medical evidence, supporting the testimony of eye-witnesses, learned trial Court had correctly reached to the conclusion that as viscera is found to be congested, which is possible in case of electrocution and poisoning; and as the viscera report ruled out administration of any poison, so the only cause remained was the electrocution. Not only this, as per Modi Medical Jurisprudence, as referred by the trial Court, it is not necessary that burn marks should appear on the electrocuted person and as such, the absence of burn marks on the dead body of deceased-Naresh Kumar could not be a reason to hold that death by electrocution was not proved, as opined by the Appellate Court.

13. Trial Court also referred to the site plan (Ex.P7) proved by PW11-Krishan Murti, Draftsman, who had gone to the spot and which clearly reflected an electric poll at the spot; electric lines going on three sides and stray wire on the fourth side. Simply because no complaint regarding death of electrocution was lodged with the defendants, could not be the reason to discard the cogent evidence produced by the plaintiffs.

14. Learned First Appellate Court also went in grave error in holding that it was for the deceased to take precautions while moving towards the electric poll. Learned trial Court rightly held that it is the duty of the defendants/its officials to maintain electric lines and they were under obligation to properly insulate the stray wires to avoid any mishap. No person passing near the electric poll would imagine that it may have electric current. The evidence clearly established that it is the

defendants/its officials, who were negligent in maintaining the electricity line properly and as such, they were rightly held by the trial Court to be responsible for the loss of life of Naresh Kumar and therefore, the respondents-defendants were rightly held liable for paying damages to the plaintiffs-appellants, the family members of the deceased.

15. On account of the aforesaid discussion, it is held that judgment & decree dated 17.01.1998 passed by the learned First Appellate Court, cannot be sustained and so, the same is hereby set aside. The judgment & decree dated 02.09.1997 passed by the trial Cout, whereby the suit of the plaintiffs-appellants was decreed, is hereby restored. Since name of defendants is changed, so its successor will be liable to comply with the decree.

16. The appeal is accordingly allowed with costs throughout. Decree sheet be prepared accordingly.

18.07.2025

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned	: Yes
Whether reportable	: No