

RSA-3502-2009

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

RSA-3502-2009

Reserved on:-13.05.2025

Pronounced on:-11.08.2025

Ajay Kumar

...Appellant

Versus

U.H.B.V.N. Ltd and others

.....Respondents

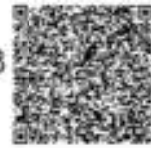
CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Ms. Nitika Goel, Advocate
for the respondents.

SUVIR SEHGAL, J.

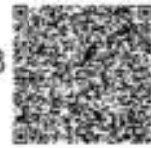
1. Appellant/plaintiff is in second appeal assailing concurrent finding recorded by the two Courts.
2. Plaintiff has filed a suit for recovery of Rs.10 lakhs as damages along with interest @ 18% per annum. It has been pleaded that he is a rickshaw puller and is residing in Sondapur colony in a rented accommodation with his parents. Respondents/defendants have installed electric lines, which pass over the houses of this colony. Various complaints were made to the defendants for removing the electric lines, but without any success. On 09.05.2001, while connecting the television antenna wire, plaintiff got an electric shock and sustained burn injuries on his legs and left hand. The incident took place as the electric lines



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were loose and came in contact with the antenna of the television. A report was lodged with the police and plaintiff was hospitalized. Both his lower limbs and left hand was amputated. An amount of Rs.70,000/- was spent on his treatment. As the defendants were negligent, a legal notice was sent to them to pay damages before instituting the suit.

3. Upon being served, defendants filed a joint written statement contesting the suit, raising various preliminary objections. On merits, it was submitted that the residential house had been constructed in an unauthorised colony, which had come up beneath the existing electric lines. Defendants took a stand that the electric lines were being properly maintained and they can be shifted only after the inhabitants pay the expenses and complete the procedural formalities. Although the accident was denied, but it was submitted that upon coming to know about the incident, it was inquired into and it transpired that plaintiff was installing a television antenna, which came in contact with an electric wire, resulting in the electrocution. It was further submitted that the electric wires were at a height of 10 to 12 feet above the construction and the defendants never received any complaint of any fault in the lines. Medical expenses incurred by the plaintiff were also denied. Plaintiff filed a replication controverting the stand taken by the defendants in their written statement and reiterated the claim. On the basis of the pleadings of the parties, Trial Court framed issues. After the parties led evidence and were heard, Trial Court dismissed the suit vide judgment and decree dated 26.03.2008. Plaintiff remained unsuccessful in first appeal, which was dismissed by the learned Additional District

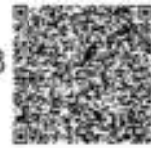


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Judge, Panipat vide judgment dated 13.10.2008, resulting in the institution of the present appeal. While admitting the instant appeal on 28.05.2012, this Court issued an interim directions to the defendants to pay an amount of Rs.30,000/- to the plaintiff on account of the permanent disability suffered by him.

4. Counsel for the appellant/plaintiff has contended that the electric wires were not properly maintained by the defendants. He submits that live electric wires came in contact with the antenna which was electrified and when plaintiff was connecting the antenna with the television, he was electrocuted, resulting in 100% disability. Asserting that the defendants are liable to pay compensation for the permanent disability, he has placed reliance upon *Raman Versus State of Haryana and others 2013 (3) R.C.R. (Criminal) 653, Ajmer Vidyut Vitran Nigam Limited & Anr. Versus Smt. Kailash Kunwar and others, 2015 (7) RCR (Civil) 643, Santha & Ors. Versus Secretary, KSEB & Ors., 2014 (15) R.C.R. (Civil) 676, Smt. S.K. Shangring Lamkang and Anr. Versus State of Manipur and Ors., 2007 (31) RCR (Civil) 803 and Mushtaq Ahmed and others Versus State of J and K. and others, 2008 (19) RCR (Civil) 365.*

5. *Per contra*, counsel for respondents while supporting the impugned judgments and decrees, has contended that there is no evidence to show that respondents were negligent. He asserts that the incident occurred due to the fault of the plaintiff, who was careless while connecting the antenna with the television. He urges that an unauthorised colony had sprung up after the electric wires had been

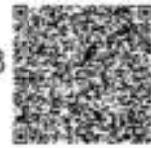


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installed and the respondents/defendants cannot be saddled with the liability to pay compensation.

6. I have heard counsel for the parties besides analysing the evidence led by the parties.

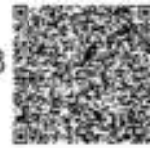
7. In order to escape their liability, the first attempt of the defendants was to deny the incident altogether. They took a stand that plaintiff was never electrocuted nor were they intimated about the occurrence. But simultaneously, they stated that on 11.05.2001, information of the incident was received by them from Police Station Model Town, Panipat and Sh. Somnath, DW1, Assistant Foreman (AFM), who was incharge of the area concerned, inquired into the occurrence and came to know that plaintiff was installing a television antenna, which came in contact with live electric line and he received some injuries. Both the witnesses examined by the defendants have deposed on similar lines. Plaintiff deposed as his own witness as PW1 and his father Ramakant, PW2, supported his testimony. Both the witnesses have alleged laxity on the part of the defendants and have deposed that the incident occurred as a loose wire came in contact with the TV antenna and plaintiff was electrocuted. They have claimed that the defendants were negligent. Dr. K.L. Chopra, PW4, who was posted as Medical Officer, Government Hospital, Panipat conducted medico-legal examination of the plaintiff and found that he had suffered burn injuries of varying degrees on both forearms and hands, upper part of chest, as well as both lower limbs and feet. He found that the skin was peeled off and there was a black depression on the chest, hands, feet and



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left knee due to burns. In his cross-examination, he has categorically stated that the injuries are only possible due to electric burns. He produced the MLR as Ex.PW4/A. Medical bills, prescription slips, hospital record and the disability certificate of the plaintiff establish that he had undergone treatment and has suffered 100% permanent disability in the incident. The factum of incident of electrocution, medical treatment, hospitalisation, medical expenses and 100% permanent disability suffered by the plaintiff stand duly established on the record.

8. Now the only question that is to be determined is whether the incident took place due to fault of the plaintiff or the defendants were negligent in performance of their duties. A cumulative reading of the deposition of plaintiff as well as his father prima facie shows that negligence is that of the defendants. In order to discharge the onus, the defendants have taken a stand that the plaintiff was residing in a house, which was constructed in an unauthorised colony and that the electric wires were installed prior to the coming up of the colony. A minute examination of the stand taken by the defendants as well as the evidence led by them shows that there is nothing on the record to show that colony is unauthorised or the electric wires had been erected prior to construction of the residential houses. Neither in their written statement nor in the evidence led by them, defendants have not been able to give the dates of the erection of the electric lines or coming up of the colony from where they can establish that the wires were laid prior in point of time. In absence of any such evidence, both Courts have erred in coming to the conclusion that the colony was unauthorised or the electric wires



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were in existence before the residential houses were constructed.

9. Furthermore, defendants have not led any evidence that the electric wires were being maintained or checked on regular intervals. Mere assertion by the defendants, without any evidence to this effect, cannot be accepted. Findings to the contrary recorded by the Courts below therefore cannot be sustained. Matter therefore deserves to be remitted to the Trial Court to determine as to whether plaintiff was at fault or the negligence is that of the defendants.

10. For the reasons recorded above judgments and decrees passed by both the Courts below are set aside. Appeal is remanded to the Trial Court for decision afresh on merits to adjudicate as to whether the incident had taken place due to the fault of the plaintiff or the defendants were negligent and determine compensation, if any, payable to the plaintiff.

11. It will be open to the parties to lead any additional evidence in case they intend to do so in order to support their respective case. Parties are directed to appear before the Trial Court on 10.09.2025 for further proceedings in accordance with law. Amount of Rs.30,000/- directed to be paid to plaintiff by this Court vide order dated 28.05.2012 shall not be recovered till the determination of the suit by the Trial Court.

12. Appeal is disposed of.

11.08.2025

Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No