

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

APPEAL SUIT No.190 of 2005

JUDGMENT:

This appeal is filed against the Judgment of the trial Court in O.S.No.55 of 1998 dated 09.02.2004.

2. Plaintiffs in the suit are wife and children of one Ahmed who met with accident on 01.05.1996 and died while undergoing treatment. They filed suit for compensation of Rs.4,00,000/-. The first plaintiff is the wife and plaintiffs 2 to 5 are the minor children of the deceased. On 01.05.1996 at about 4 – 5 a.m while Ahmed going to the fields stepped on suspended snapped live wire of low tension line passing through the fields and sustained extensive burns and shocks and became unconscious. He was shifted to Government Civil Hospital, Nizamabad. The police of Navipet registered a case in Crime No.96 of 1996 under Section 338 IPC. On 02.06.1996 he died while undergoing treatment. The police altered the section of law to Section 304-A I.P.C.

3. The defendants stated that they are careful in maintaining the lines and transmission system. On the

intervening night of 01.05.1996 there was heavy wind due to which 33KV transmission line from Nizamabad to Basar was snapped but did not touch the ground or any neutral point and was hanging in the air as such the supply line did not trip at Nizamabad sub-station. As there was no indication of snapping of wire they could not inspect and rectify the line moreover, it was not hanging neither on road, a cart track, a pathway nor a public place. There was a separate road from Shiva Thanda to Mattai farm but Ahmed was passing through the said field and sustained injuries as such he himself responsible for the incident. If he was diligent and careful, he could have avoid the direct impact of the live wire and thus they stated that he is entitled for exgratia of Rs.10,000/- but not for compensation.

4. Plaintiffs examined the first plaintiff as P.W.1 and two other witnesses on their behalf and marked Exs.A1 to A11. Defendants have examined S. Rajaram, AAE/HT meters, Nizamabad who worked as AAE/OP, AP Transco, Nizamabad at the relevant time.

5. The trial Court considering the entire evidence on record, age, occupation and income of the deceased and other

circumstances granted compensation of Rs.1,88,000/- at the rate of 6% interest per annum out of which plaintiff No.1 is entitled for Rs.37,600/- and the share of plaintiff Nos.2 to 5 shall be kept in FDR in any nationalized bank till they attain the age of majority. Further first plaintiff is permitted to withdraw the interest on the amount in deposit for maintenance of plaintiff Nos.2 to 5. Aggrieved by the said order this appeal is preferred by the electricity department. They mainly contended that there is no negligence on their part. There was heavy gale/rain and wind which resulted in snapping of the live wire, moreover the accident occurred only due to negligence of Ahmed. He further stated that plaintiffs did not prove the earnings of the deceased and he was not earning Rs.3,500/- per month. The evidence of D.W.1 was not believed by the trial Court and while granting quantum of compensation did not give any deduction towards lump sum payment. Therefore, requesting this Court to set aside the Judgment of the trial Court.

6. The deceased was aged about 30 years and doing agriculture. Plaintiff No.1 stated that he was earning Rs.3,500/- per month. The trial Court considering evidence on record taken

his age as 35 years and the multiplier as 17 and his annual income as Rs.14,400, 1/3rd is deducted towards his personal expenses and arrived to the compensation of Rs.1,63,200/- and Rs.7,000/- under non-pecuniary damages and Rs.20,000/- towards special damages for pain suffer and loss of consortium etc., This amount of Rs.1,88,000/- was rightly granted by the trial Court and it needs no interference.

7. The trial Court relied upon a decision of the Supreme Court in ***M.P.Electricity Board Vs.Shail Kumar and others***, wherein it was held that Electricity Board is liable to pay compensation irrespective of any negligence or carelessness on the part of the Electricity Board when a person died due to contact with live electric wire lying on the road. The trial Court has also observed that the liability cast upon the department is strict liability and even if there was no negligence on the part of the department, they are liable to pay compensation for the death of the deceased. In view of the above citation the Electricity Department is liable to pay the compensation even though there is no negligence on their part. In this case the trial Court observed that the department failed to prove that there was heavy storm and rain at the time of incident. The deceased

died due to electrocution, his wife and minor children became destitute. Suit was filed in the year 1998 at that time minor children aged 9, 8, 7, 6 years respectively and they might have become major by this time as such they are declared as majors and permitted to withdraw the amount kept in FDR's. This Court finds no infirmity in the order of the trial Court.

In the result, appeal is dismissed with costs confirming the order of the trial Court in O.S.No.55 of 1998 dated 09.02.2004.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE P.SREE SUDHA

DATED: 12.12.2022

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