

M.P.S.E.B. and ors Vs. Arvind and ors

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Court : Madhya Pradesh

Decided On : Mar-21-2013

Appellant : M.P.S.E.B. and ors

Respondent : Arvind and ors

Judgement :

F.A. No.257/2003 -1- HIGH COURT OF MADHYA PRADESH JABALPUR SINGLE BENCH: Honble Shri Justice A.K. Shrivastava F.A. No.257/2003 APPELLANTS 1 M.P. State Electricity Board DEFENDANTS through Chairman, Jabalpur.

2. Junior Engineer, M.P. Electricity Board, Ajaygarh Branch, District Panna.

3. Sub Engineer, M.P. Electricity Board, Panna Branch, Panna, District Panna.

4. Assistant Engineer, M.P. Electricity Board, Panna Branch, District Panna. -
Versus- RESPONDENTS:

1. Shri Arvind s/o Ramsajiwan Kurmi PLAINTIFFS (Minor) through guardian Mst. Priya w/o Shankar Kurmi, R/o Ranipur; Tahsil Ajaygarh District Panna.

2. Priya w/o Shankar Kurmi, R/o village Ranipur; Tahsil Ajaygarh District Panna.

----- Shri Vivekanand
Awasthy, Advocate for the appellants. Shri L.N. Sakale, Advocate for the
respondents. -----

JUDGMENT

{21-03-2013} Feeling aggrieved by the judgment and decree dated 2.1.2003 passed by learned District Judge, Panna in Civil Suit No.19-A/2002 whereby the suit of plaintiffs for compensation to the tune of Rs.60,000/- and interest @9% F.A. No.257/2003 -2- per annum from the date of filing of the suit has been decreed, this first appeal under Section 96 CPC has been filed by the defendants.

2. No exhaustive statements of fact are required to be narrated for the purpose of disposal of this appeal as they are mentioned in detail in para 1 to 5 of the impugned judgment and therefore, for the convenience they are not being reproduced here. Suffice it to say that the first plaintiff- respondent is the minor son and second plaintiff is the mother of the deceased Ram Sanjeevan (hereinafter referred to as the deceased.) who died on account of electrocution on 18.7.1993 at the age of 32 years. Hence, a suit for realization of compensation has been filed by the plaintiffs.

3. Learned Trial Court framed necessary issues and after recording the evidence of the parties decreed the suit of plaintiffs. In this manner this appeal has been filed by the defendants.

4. I have heard learned counsel for the parties. Having heard them I am of the view that this appeal deserves to be dismissed.

5. The factum of death of the deceased on account of electrocution is not in dispute, rather it has been emphatically proved. The issue No.4 was framed by learned F.A. No.257/2003 -3- Trial Court as to whether on account of negligent act of the defendants-appellants the deceased had died on account of electrocution. Learned Trial Court while deciding this issue has given categorical finding from 7 onwards to para 14 on the basis of evidence placed on record.

6. The first plaintiff Arvind Kumar was examined as PW-1. According to him, on the date of incident his father was discharging agricultural work in the field and while discharging the agricultural work, the insulator which was fastened upon the electric pole, fell down as a result of which live electric wire came in contact with

the deceased and he died on account of electrocution. Vrindawan Mishra (PW-2) and Kallu (PW-3) are the eyewitnesses. On behalf of defendants helper Bhagwandas has been examined as DW-1 and Junior Engineer Ganesh Singh was examined as DW-2. Bhagwandas (DW-1) has admitted that when he arrived at the spot he found that the deceased was lying on the field. The evidence of Junior Engineer Ganesh Singh (DW-2) is also not helpful because of the factum of death of deceased on account of electrocution has not been denied by him. True, the plaintiff is not the eyewitness but since the deceased had died on account of electrocution and electric wire was lying nearby his dead body, the doctrine of res ipsa loquitur would apply in its full force. Hence, I am of the view F.A. No.257/2003 -4- that the learned Trial Court did not commit any error in holding that the deceased had died on account of electrocution.

7. According to me, it was the statutory duty of the defendants to stretch the wire particularly when high voltage current is flowing from it and fix the insulator etc. in such a manner that it should not fall or break so as to put any person or even a cattle in hazardous situation. There is no material on record so as to prove that the insulator and wire etc. was thoroughly checked so that it may not fall. No report in this regard has been filed and proved by the defendants. Since the defendants were negligent in this regard, therefore, according to me, they are responsible to pay the compensation to the plaintiffs because they are the dependents of the deceased. Indeed, negligence is the breach of a duty caused by omission to do something which a reasonable man, guided by those considerations, which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. In this regard, I may rely upon page 474 of Ratanlal & Dhirajlal, The Law of Torts, 26th Edition 2010. I have gone through the reasonings assigned by learned Trial Court decreeing the suit of plaintiffs to the extent of Rs.60,000/- F.A. No.257/2003 -5- along with interest. The reasons so assigned are cogent and I do not find any ground to deviate from those reasonings.

8. Resultantly this appeal fails and is hereby dismissed with costs. Counsel fee Rs.5000/- if pre-certified. (A.K. SHRIVASTAVA) JUDGE 21 03.2013 sach