
(2013) 03 MP CK 0027
In the Madhya Pradesh High Court
Case No : F.A. No. 107 of 2004

Chairman, M.P. Electricity Board and Others	APPELLANT
Vs	
Acchelal Lodhi	RESPONDENT

Date of Decision : 19-03-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96

Citation : AIR 2013 MP 141

Hon'ble Judges : A.K. Shrivastava, J

Bench : Single Bench

Advocate : Arup K. Das, for the Appellant;

Judgement

A.K. Shrivastava, J.—Feeling aggrieved by the judgment and decree dated 10.10.2003 passed by learned Third Additional District Judge, Satna in Civil Suit No. 2-B/2003 whereby the suit of plaintiff for compensation to the tune of Rs. 12,000/- and interest @ 9% per annum from the date of filing of the suit has been decreed, this first appeal u/s 96, CPC has been filed by the defendants. 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 paras 1 to 4 of the impugned judgment and therefore, for the convenience they are not being reproduced here. Suffice it to say that the plaintiff-respondent is the owner of deceased she-buffalo (hereinafter referred to as "the deceased") who died on account of electrocution on 29.6.1998. Hence, a suit for realization of compensation has been filed by the plaintiff.

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

3. I have heard learned counsel for the appellant and perused the record and I am of the view that this appeal deserves to be dismissed.

4. The factum of death of the deceased on account of electrocution is not in

dispute, rather it has been emphatically proved. The issue No. 1 was framed by learned Trial Court as to whether on account of negligent act of the defendants-appellants the she-buffalo of the plaintiff had died on account of electrocution. The learned Trial Court has assigned the reasons in paras 6 to 8 of the impugned judgment. The plaintiff is the eye-witness and he has categorically stated that he released the she-buffalo to graze as a result of which when his she-buffalo reached nearby transformer of the defendants she died on the spot because a broken live electric wire was lying nearby the transformer. This witness has categorically stated that when he arrived at the spot he found that she-buffalo had died on account of electrocution as a result of which he went to police station and lodged the report. Thereafter, employees of the defendants arrived at the spot and disconnected the wire from the main line. The learned Trial Court has rightly arrived at a conclusion that on account of negligent act of the defendants the deceased had died. Hence, I am of the view that learned Trial Court did not commit any error in holding that the deceased she-buffalo of the plaintiff had died on account of electrocution and the broken electric wire was lying in the open place.

5. According to me, it was the statutory duty of the defendants to stretch the wire particularly when high voltage current is flowing from it in such a maimer 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 wire 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 plaintiff because he is the owner of the deceased she-buffalo. 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 plaintiff to the extent of Rs. 12,000/- along with interest. The reasons so assigned are cogent and I do not find any ground to deviate from those reasonings. Resultantly this appeal fails and is hereby dismissed with costs. Since nobody has appeared on behalf of the respondent, the parties are directed to bear their own costs.