
(2013) 03 MP CK 0115
In the Madhya Pradesh High Court
Case No : F.A. No. 316 of 2004

Chairman, M.P.E.B. (now M.P.S.E.B.) and Others	APPELLANT
Vs	
Smt. Dhapubai and Another	RESPONDENT

Date of Decision : 19-03-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96

Citation : AIR 2013 MP 142

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

Bench : Single Bench

Advocate : A.K. Pathak, for the Appellant;

Judgement

A.K. Shrivastava, J.—Feeling aggrieved by the judgment and decree dated 7.2.2004 passed by learned Second Additional District Judge (Fast Track Court), Ashta, District Sehore in Civil Suit No. 7-B/2002 whereby the suit of plaintiff for compensation to the tune of Rs. 1,27,000/- and interest @ 6% 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 8 of the impugned judgment and therefore, for the convenience they are not being reproduced here. Suffice it to say that the plaintiffs are the parents of the deceased Dinesh aged 19 years (hereinafter referred to as "the deceased") who died on account of electrocution on 6.8.2001. Hence, a suit for realization of compensation has been filed by the plaintiffs. During pendency of the suit first plaintiff Raghunath, father of the deceased, died and therefore, his name has been deleted from the cause title.

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 appellants and perused the record. 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 deceased had died on account of electrocution. Sobhag Singh (PW-3) is the eye-witness. He has categorically stated that when the deceased was passing through a field and as soon as he came nearby the field of Dhansingh a broken electric wire in which current was flowing, was lying there. The deceased came in contact with the live wire as a result of which he died on the spot on account of electrocution. The evidence of this witness is corroborated by another eye-witness Vikramsingh (PW-4) and this witness has also stated the same version that broken electric wire was lying. The postmortem report of the deceased (Ex.P-8) has also been proved by Dr. A.K. Jain (PW-6) and he has also deposed that the deceased had died on account of electrocution. On behalf of the defendants, Line Helper Baldeo Singh (DW-1) was examined. This witness in para-2 of his cross-examination has admitted that when he received information from the head office he went to the spot and found that electric wire was lying and small pieces of electric wire were also lying there. The defendants also examined another witness Kumar Singh as DW-2 but, in his cross-examination this witness has admitted that he was not on the spot when the incident had occurred, although he has admitted that when he came to his home it was informed to him that in the field of Dhansingh broken wire was lying and when the deceased came in his contact he had died. Hence, I am of the view that learned Trial Court did not commit any error in holding that the deceased had died on account of electrocution and the broken electric wire was lying in the field.

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 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 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 she is the mother 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 some thing 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. 1,27,000/- 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. Since nobody is appearing for the respondent the parties are hereby directed to bear their own costs.