

(2000) 07 RAJ CK 0011

In the Rajasthan High Court

Case No : Civil Regular First Appeal No. 283/98

Rajasthan State Electricity Board and Others

APPELLANT

Vs

Smt. Pani Bai and Others

RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Fatal Accidents Act, 1855 — Section 1A

Citation : (2000) 07 RAJ CK 0011

Hon'ble Judges : Amaresh Kumar Singh, J

Bench : Single Bench

Advocate : L.M. Lodha, for the Appellant; Suresh Kumbhat and Mr. B.K. Bhatnagar, for the Respondent

Judgement

A.K. Singh, J.—Heard the learned counsels for the appellants and respondents.

2. This appeal is directed against the judgment dated 2nd Nov.1998. passed by the Additional District Judge, Bali, in Civil Suit No.94/99 decreeing plaintiff's suit for Rs.2.17.000/- with the interest at the rate of 18 per cent per annum from the date of institution of the suit to the date of realisation.

3. The facts of the case may be briefly summarised as follows : the plaintiffs respondents filed a civil suit u/s 1-A of the Fatal Accidents Act in the Court of Additional District Judge, Bali, with the prayer that a sum of Rs.7,00,000/- be awarded as compensation. According to averments made in the plaint. Rainga earned his livelihood by agricultural labourer. He was cultivating the field of Chhoga Ram at Bera Dedawa. The defendants has installed an electric line over the said Bera and electric pole had been installed in the agricultural field of Bera Dedawa. A supporting wire was also installed with the electric pole. On 12.6.1994 at about 3.30 P.M. as soon as Rainga Ram came into contact with supporting wire of the electric pole, he received an electric shock and by the time he could be separated from the electric wires, he died. Thereafter the father-in-law of Rainga Ram and some other persons reached the spot and separated Rainga Ram from the Electric wire.

4. The accident was reported at the police station Bali and an inquiry u/s 174 of the Code of Criminal Procedure was conducted, lite panchnama as well as other papers were prepared during the inquiry. Post mortem examination of Rainga Ram was conducted and it was found that he died due to electric shock which he received by coming into contact with a supporting wire attached to electric pole.

5. It was alleged in the plaint that defendants had committed negligence in proper maintenance of the electric pole and supporting wires attached thereto and a sum of Rs. 7 lacs was claimed by way of compensation.

6. Suit was contested by the defendant appellants. It was denied that there was any negligence in proper maintenance of the electric pole and the supporting wire. It was also stated in the written statement that on 12.6.1992 there was heavy rains and storms and Rainga Ram was using supporting wire for teeing his bullocks, inspite of fact that he was asked not to do so, and therefore, Rainga Ram was responsible for his own death. It was also stated in the written statement that no electric current was flowing from the supporting wire attached to the electric pole. The defendants prayed for the dismissal of the suit. Learned District Judge framed following issues-

(1) Whether the deceased Rainga Ram was earning Rs.20,000/- annually from Agriculture?

(2) Whether the deceased died on account of shock which he received by coming into contact with wires of the pole which was standing in the Bera Dedawasar in Sarhad Sewadi on 12th June 1994?

(3) Whether the alleged accident occurred on account of carelessness and negligence on the part of the defendants. If so, to what extent plaintiffs are entitled to compensation?

(4) Whether the suit for compensation is not maintainable? (5) Relief if any ?

7. Dr.Kailash Singh Deora PW1, Arjun Singh PW2 and Smt.Pani Bai wife of Rainga Ram PW 3 and Ram Lal PW 4 were examined in support of the claim. Ram Das Shankhla DW 1, who was a junior engineer in the employment of defendants, was examined on behalf of the defendant in rebuttal.

8. After considering the evidence as well as the arguments advanced by the learned counsel for the parties, the learned Additional District Judge, decreed the claim for Rs.2,17,000/- with interest at the rate of 18 per cent per annum from the date of institution to the date of realisation.

9. The learned counsel for the appellants has submitted that the learned Trial Court has committed an error by holding that the death of Rainga Ram was due to negligence in not proper maintenance of electric poles and supporting wire. There was no evidence at all to show that the defendants committed any negligence in maintenance of the electric pole and supporting wires attached to the electric pole. It is also submitted by the learned counsel for the appellants

that the learned trial Judge has committed a legal error by awarding interest at the rate of 18 per cent per annum, on the principal amount, for the period commencing from the date of decree till the realisation of the amount. It is contended by the learned counsel for the appellant that u/s 34 of the CPC the maximum rate of interest, for the period commencing from the date of decree is not more than 6 per cent per annum.

10. The learned counsel for the respondents has supported the judgment and decree of the learned District Judge and prayed for the dismissal of the appeal

11. I have carefully considered the submissions made by the learned counsel for the parties and evidence produced by the parties. Dr. Kailash Singh Deora PW 1 has stated that on 12.6.94 he conducted Post Mortem examination of the body of Raina Ram son of Kalaji by caste Choudhary resident of Guda Sirviyan and prepared Post Mortem report which is signed by him. It is stated by Dr. Kailash Singh Deora that cause of death of Raina Ram was shock on account of flowing of electric current in electric line. The statement of this witness has not been challenged in the cross examination. The evidence of Dr. Kailash Singh Deora PW 1 proves that the death of Raina Ram was on account of electric shock.

12. Arjun Singh PW 2 has stated on oath that from 1988 till date of statement, he was working as line man in Telephone department and he was living at Bera Dedawa with his family. On 12.6.94 at 3.30 p.m. he was present in his house. He heard cries of childrens and he went to Bera Dedawa and he saw that body of Raina Ram was coming there and hand was touching to the wires of electric pole and Raina Ram was dead. It is also stated by this witness that deceased Raina Ram was working in as Mawali at Bera Dedawa and died due to electric current. In cross-examination-he has stated that electric pole was near the well/Bera Dedawa. The statement of this witness has not been shaken by cross examination.

13. PW3 Smt. Pani Devi wife of Raina Ram, she stated that on 12.6.94 her husband died on account of electric current which was coming from the electric wires. It is also stated by her that Arjun Singh Telephone operator has separated the body from the electric wires and information was given to her father and the police conducted inquiry, in cross examination it was suggested that animals were tied by separated electric wire but she denied."

14. PW 4 Ram Lal has given statement to the effect that on the date of accident, at 3.30 p.m. he received information that his son in law was died in village Dedawa because of flowing of current coming from the electric pole. It is stated by him that the report to the police was made by him. Police came to the site and conducted inquiry and prepared a site plan and other papers. It is also stated by him that his son-in-law was died and incident occurred on account of negligence of the Rajasthan State Electricity Board.

15. Ram Das Shankhla DW 1 who is a junior engineer. He has stated that on 12.6.94, Kan Singh gave information about the incident of death of Raina Ram.

There after he went to the site with Kan Singh and reached the place of incident and stopped, the electric current This witness stated that when he reached the spot he found that the deceased Rainga Ram was lying there with face towards earth and his left hand he was holding supporting wire of the electric pole. A bullock was also tied near the dead body. It is also stated that Rainga Ram used to lie bullock with supporting wires and his death was caused by his own negligence. The evidence produced by both the parties clearly shows that Rainga Ram died due to electric shock and current flowing in (he wires of electric pole and supporting wire of the pole installed by the defendant appellants.

16. In the above facts and circumstances of the case, there is no escape from the conclusion that the electric shock which deceased Rainga Ram had received, was on account of electric current which was flowing from the supporting wire. The crucial question is whether the defendants appellants were negligent in proper maintenance of the electric line, or it is Rainga Rain was responsible who received current which was fatal. Photographs which has been placed on record shows that neither supporting wire nor any electric wires had been broken. In the circumstances, it was necessary for the respondents to have conducted a proper inquiry to find out the cause of flowing of the current in the supporting wire. Learned counsel for the appellant has suggested that Rainga Ram died because he used to tie his bullock with supporting wires of the electric pole, supporting wire might have shaken such an accident to limb on wire. There is nothing on record to substantiate the suggestion made by the learned counsel for (he appellants. In the facts and circumstances of the case, it was the duty of the defendant appellants to have to conducted proper inquiry in to the matter and placed on record sufficient material to show that there was no negligence on the part of the defendant appellants and flowing of current in the electric wife was neither due to, fault in installation nor on account of negligence in maintenance but on account of toeing of bullock with the supporting wire of the electric pole. In absence of such evidence, the suggestion made by the learned counsel for the appellants cannot be taken as a true.

17. In the above facts-and circumstances of the case, I do not find any reason to interfere in the findings given by the learned trial Judge. Therefore, it must be held that defendant appellants are liable to pay damages because of death of Rainga Ram. which has been caused on account of their negligence in installation of electric line or in proper maintenance thereof.

18. The learned counsel for the appellants has submitted that interest at the rate of 18 per cent per annum could not have been awarded by the learned District Judge for the period subsequent to the passing of the decree. This argument appears to be well founded.

19. For the reasons mentioned above, the judgment and decree passed by the learned Additional District Judge, Bali decreeing the claim for Rs.2,17,000/- with the interest at the rate of 18 per cent per annum from the date of institution of the suit to the date of decree is hereby affirmed. The appeal is partly allowed. It

is directed that the plaintiffs respondents shall also get interest at the rate of 6 per cent per annum on the amount of compensation awarded and from the date of decree to date of realisation, to that extent impugned judgment and decree is modified. The costs of the appeal shall be born by the appellants.