
(1985) 05 RAJ CK 0026

In the Rajasthan High Court

Case No : Civil Regular Second Appeal No. 469 of 1975

Rajasthan State Electricity Board, Jaipur

APPELLANT

Vs

Shiv Charan Lal Vaish

RESPONDENT

Date of Decision : 01-05-1985

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100
Electricity (Supply) Act, 1948 — Section 18, 42

Citation : (1987) 1 ACC 79 : AIR 1986 Raj 176 : (1986) RLW 86 : (1986) 1 WLN 51

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Advocate : H.P. Gupta, for the Appellant; D.L. Bardhar, for the Respondent

Final Decision : Dismissed

Judgement

Guman Mal Lodha, J.—This is a petty case of compensation of Rs. 1200/- allowed and decreed on account of death of one she buffalo belonging to Shiv Charanlal, the respondent plaintiff, due to the touch of electricity wire.

2. The facts are not in dispute but, Shri H.P. Gupta, the learned counsel for the Rajasthan State Electricity Board, has vehemently submitted that the finding of negligence on the part of the employees of the appellant is wholly erroneous and deserves to be quashed in second appeal,

3. On a thoughtful consideration of the entire record and the submission of Shri Gupta and Shri D.L Bardhar, appearing on behalf of the respondent plaintiff, I am of the opinion that there is no error of law committed by the courts below in coming to this finding. There is no escape from the conclusion that normally it is the duty of the Electricity Board to maintain and keep all its instrumentation including poles, their fixtures, in such a condition that the passers-by, may be human beings or chattels, on coming into contact with them are not hit by any electricity wire or exposition of the electricity. This principle can neither be disputed, it has been repeatedly confirmed in a series of decisions by the various

High Courts of this country.

4. Shri Gupta's contention is that the position of the injury as revealed from the post mortem report shows that it was a momentary touch only and that was also on account of rubbing by the she buffalo.

5. In my opinion, the touch of electricity wire even momentary is enough to take a life, and the fact is that she buffalo came in contact by rub and died. If the chattel are allowed to pass through that area, then natural activities of chattel are to be presumed and assumed. The Electricity Board should ensure such a safeguard by bar or otherwise if the instruments so necessitate, and nobody can come in contact with it and if they do not do so, it would come in the category of the negligence. I am convinced that the finding of the negligence is based on a proper appreciation of the evidence, and calls for no interference in this second appeal

6. Consequently, this appeal is dismissed without any order as to costs.