
(2001) 10 P&H CK 0125

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 4751 of 1999

Smt. Veena Rani

APPELLANT

Vs

Punjab Water Supply and Sewerage Board and Others

RESPONDENT

Date of Decision : 31-10-2001

Acts Referred:

Citation : (2003) ACJ 1586 : (2002) 2 CivCC 535 : (2002) 1 RCR(Civil) 823

Hon'ble Judges : Mehtab S. Gill, J

Bench : Single Bench

Advocate : Sandeep Jasuja, for the Appellant; J.S. Sathi, for the Respondent

Final Decision : Allowed

Judgement

Mehtab S. Gill, J.—C.M. No.8374 of 1999. Delay of 24 days in re-filing the appeal is condoned and the C.M. is allowed.

R.S.A.No.4750 of 1999.

This judgment will dispose of two appeals viz R.S.A. No.4750 of 1999 and RSA No.4751 of 1999 as the facts are common and these pertain to the same occurrence dt. 25.3.1988.

2. The appellants Smt. Veena Rani filed a suit for the recovery of Rs.2 lac from the respondents. She stated in the plaint that on her visit to Abohar in connection with some marriage when she was passing through Johri Mandi Road, Abohar, she fell into an un- covered man-hole and suffered serious injuries on her left leg and foot. Due to these injuries, she was admitted in the hospital and was treated by Dr. Kulwant Raki Ahuja of Abohar and, thereafter, shifted to Gupta Hospital Bhatinda. Ultimately, her left leg had to be amputated due to the injuries suffered by her. The appellant at that time gave birth to a pre-mature male baby on 27.4.1988, who died after two days of that delivery. She went through a lot of pains and sufferings. She also lost one of her left leg and male child due to negligence on the part of the respondents. She stated further that

she was 22 years of age and her husband is not earning much and she was helping her husband in the livelihood and her normal life was disturbed.

3. I have heard Id. counsel for the parties and with their assistance have gone through the record carefully.

4. Id. counsel for the appellant has stated that it was the duty of the respondents to maintain the manhole and to get it covered.

5. Smt. Veena Ram-plaintiff (now appellant) has come to the witness box and reiterated her version as given in the plaint. Dr. Kulwant Rai Ahuja of Abohar stepped into the witness box as PW-1 and has stated that he medico legally examined the appellant Smt. Veena Rani. The two eye witnesses i.e. PW-2 Jagan Nath and PW-3 Dev Raj corroborated the version put forth by the appellant. PW-4 Dr. Amit Gupta of Bhatinda stated that as gangrene had set in, the left leg of the appellant, the same had to be amputated. X-ray reports Exs. P-4 to P-6 were placed on record. PW-4 Dr. Amit Gupta and PW-5 Dr. M.L.Kamra also stepped into the witness box and stated that a pre-mature delivery of a male child was delivered on 27.4.1988. Discharge Certificate Ex.PW-5/1 was placed on record. Husband of the appellant Vinod Kumar also appeared in the witness box as PW-7 and corroborated the version put forward by the appellant. Further, the respondents produced two witnesses i.e. DW-2 H.D.Mehta, J.E. and DW-3 Boor Singh stated that man-hole never remained unconverted but during his cross-examination, he admitted that sewerage system in Abohar was not functioning properly and road conditions in general were bad. He further admitted that there were four man-holes on the Jo-hri Mandir Road, Abohar. DW-4 Jagga Singh another witness of the respondents also admitted that sewerage system and the roads in Abohar are not in good condition.

6. Going through the evidence on the file, there is not an iota of doubt that the appellant was injured due to the cover not being put on the sewerage hole. Moreover, the doctors have also proved the version put forward by the appellant. Due to amputation of her leg and loss of a child, the appellant must have gone through pain and suffering.

7. The appellant has stated that she was helping her husband Vinod Kumar in running house hold affairs as he did not have any job. Considering all the facts and circumstances of the case, the, trial Court awarded a sum of Rs.90,000/- due to the pain and suffering and the loss of her left leg. Further interest @ 6% p.a. from the date of institution of suit was also awarded. I do not find any infirmity or illegality in the same and the amount does not appear to be on the higher side and does not call for any interference and the respondents are liable to pay the amount jointly and severally to the appellant.

8. For the reasons stated above, the appeals are allowed and the judgments and decrees dated 4th June, 1999 passed by the Learned Addl. Distt. Judge, Ferozapur are set aside and that of the trial court is restored.