
(2006) 01 MP CK 0064
In the Madhya Pradesh High Court
Case No : First Appeal No. 274 of 2001

The Chairman, M.P. Electricity Board and Others	APPELLANT
Vs	
Ram Naresh Gautam	RESPONDENT

Date of Decision : 05-01-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96

Citation : (2006) 3 ACC 763 : (2006) 1 MPHT 495

Hon'ble Judges : Sugandhi Lal Jain, J

Bench : Single Bench

Advocate : K.K. Trivedi, for the Appellant; R.K. Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

S.L. Jain, J.—Invoking appellate jurisdiction of this Court u/s 96 of the Code of Civil Procedure, 1908, appellant M.P. Electricity Board has filed this appeal challenging the legality, validity and propriety of the judgment and decree dated 20-2-2001 passed by the 2nd Addl. District Judge, Satna in C.S.No. 25-A/2000, granting compensation to the respondent to the tune of Rs. 91,000/- for the death of Smt. Ramrati alias Ramkali who is alleged to have died on account of negligent acts of the appellants.

2. Facts leading to the filing of this appeal in nutshell are that; the respondent filed a suit against the, appellants stating that when his wife Smt. Ramrati alias Ramkali went to the field to answer the call of nature she came in the contact of broken electric wire in her Kolia, and suffered electrocution resulting into her death. The incident was reported to the police and post mortem of the deceased was performed. Doctor who performed the post mortem opined that Ramrati alias Ramkali died due to electrocution. It was pleaded that the incident occurred due to rash and negligent act of the appellants. The respondent/plaintiff claimed a compensation of Rs. 91,000/-.

3. The claim was contested by the appellants/defendants by filing written

statement categorically stating that the wife of the respondent herself was negligent as she did not keep herself away from the broken electric wire and touched the same. She herself was negligent and responsible for the said incident. It was also pleaded by the appellants/defendants that they were not negligent in maintaining supply line of electricity. It was further pleaded by the appellants/defendants that a general notice was issued to the villagers that in case any damage to the electric wire is found, then the villagers should keep themselves away from the broken wire and the matter be reported to appellants/defendants but none of the resident of the village or plaintiff brought this fact to the notice of the appellants/defendants. Every safety device was applied by the appellants, therefore, it can not be said that the incident occurred due to rash and negligent act of the appellants.

4. The Trial Court framed as many as 5 issues and recorded a finding that the incident occurred due to rash and negligent act of the appellants and awarded compensation of Rs. 91,000/-.

5. I have heard Shri K.K. Trivedi, learned Counsel for the appellants and Shri R.K. Tiwari, Counsel for the respondent and perused the record of the Trial Court.

6. Learned Counsel for the appellants vehemently submitted that the deceased herself was responsible for the incident. She was supposed to keep herself away from the broken electric wire.

7. The contention can not be accepted. The deceased was a grown up woman. If she would have seen the broken live electric wire, she would not have touched the same. The circumstances of the case reveal that the incident was accidental for which deceased Ramrati alias Ramkali can not be blamed. It was the duty of the appellants to properly maintain the electric wires. No evidence has been led on behalf of the appellants that the electric wires were properly maintained and were in proper condition at the time of the incident and earlier they were changed.

8. The principle of *res ipsa loquitur* also applies to the present case. The principle of *res ipsa loquitur* is rule of evidence whereby negligence of alleged wrong doer may be inferred from mere fact that the accident happened. The character of the accident and circumstances attending it lead reasonably to believe that in the absence of negligence it would not have occurred.

9. The electric wires were under the management and control of the appellants. The appellants could not establish that the deceased was at fault. Under the aforesaid doctrine when a thing which caused injury is shown to be under exclusive control of defendants, and the injury is such as in the ordinary course of thing does not occur if the one having such control uses proper care it affords reasonable evidence, in absence of an explanation that injury arose from defendants' want of care, therefore, the Trial Court committed no error in recording a finding that the incident occurred due to rash and negligent act of the defendants. The finding of the Trial Court that there was no negligence on the

part of the deceased also can not be interfered with.

10. Learned Counsel for appellants also submitted that the deceased was a house wife and the compensation awarded is on the higher side.

11. The contention can not be accepted. Admittedly, the age of the deceased was 28 years. Compensation of Rs. 91,000/- even in case of death of house wife can not be said to be excessive which may call for an interference in appeal. There are various services that a woman provides in the house for the husband as also for children. She is the house keeper who sees the boarding and lodging of the members of the family. Besides this, she has also her role in saving upon the expenses of the husband and children. She affords element of security.

12. Merely because the deceased was not earning anything, it does not mean that her husband had incurred no pecuniary loss by her death. The husband is entitled to compensation for the pecuniary loss for the gratuitous services which the deceased was rendering to the claimant. It is not a condition precedent to the award of compensation that the deceased should have been actually earning money or money's worth. It is sufficient for the claimant to prove that he had a reasonable expectation of benefits from the continuance of the life of the deceased. There is indeed a pecuniary value to be attached to the services which house wife renders to the husband and children.

13. In the social condition of Indian Society even if wife is assumed to be house wife her role can not be under estimated. In the absence of a house wife, engagement of servant for cooking etc., by itself result in loss. Keeping in view the minimum rate of wages per day under Minimum Wages Act, the compensation assessed by the Trial Court, by no stretch of imagination can be said to be excessive.

14. No other point was raised before me.

15. For the reasons stated above, I do not find any merit in this appeal and the same is dismissed. There shall be no order as to costs.