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FA-1378-2018

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 24th OF JUNE, 2026FIRST APPEAL No. 1378 of 2018*M.P. ELECTRICITY BOARD**Versus**SMT. ANJU KORI AND OTHERS*

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Appearance:

Shri Rakesh Kumar Tiwari - Advocate for the appellant.

Shri Pawan Kumar Singh Sengar- Advocate for respondents No. 1 to

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Shri Anmol Singh - Advocate for respondent No.5.

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ORDER

The present appeal under Section 96 of Code of Civil Procedure has been filed against the judgement and decree dated 20.03.2018 passed by the trial Court whereby the trial Court has decreed the suit for compensation filed by the respondents No.1 to 4/plaintiffs. By the aforesaid judgement and decree, the trial Court has directed the present appellant as well as the present respondent No.5, i.e. the defendants No.1 and 2 to pay the amount of compensation to the tune of Rs.4.45 Lakh to the plaintiffs jointly or severally.

2. The plaintiffs are the wife and children of deceased Ram Sumiran Kori, who expired in the intervening night of 17.11.2010 and 18.11.2010, when he was going to his farm for guarding his rice crop. At that time, the



defendant No.2 is alleged to have connected the electric wire from the electricity supply line of Electricity Board i.e. the present appellant for his own farm, which had been passing through the farm of the deceased. The deceased is stated to have taken the farm on contract (*Bataai*) from one Ram Mani and from the electricity pole, the wires were taken to the farm of defendant No.2 through the farm of Ram Mani, which was taken on contract by the deceased.

3. The learned counsel for the appellant has vehemently argued that it is duly proved on record and in fact it is the case of the plaintiffs themselves that the accident occurred on account of default of defendant No.2 in illegally pulling electricity wire from the electricity pole and the accident occurred in the dead of night. The Electricity Board even by applying reasonable care and precaution in maintaining the lines and preventing the theft. cannot be expected to patrol each and every line in the dead of night and the accident having occurred in the dead of night from the illegal electricity wire pulled by the defendant No.2, therefore the liability of the defendant No.1 who is the present appellant has erroneously been saddled on it.

4. *Per contra*, it is vehemently contended by learned counsel for the plaintiffs that the trial Court has properly passed the impugned judgement and decree and no cogent reasons have been made out in the present appeal to interfere with the aforesaid well reasoned judgement and decree passed by the trial Court which does complete justice between the parties.

5. Upon hearing the counsel for the rival parties and on perusal of the



record, it is seen that in the present case it is the case of the plaintiffs that the deceased was electrocuted by the electricity wires which were illegally pulled by defendant No.2 from the electricity pole of defendant No.1. The defendant No.1 is in appeal before this Court. The witness of defendant No.1 before the trial Court namely Shri R. K. Jain appeared before the trial Court as DW-1 and he stated in the para-3 of his affidavit of examination-in-chief that due to lack of resources with the Electricity Board, such type of accidents are unavoidable, more so when such incident has taken place in the night. He therefore, admitted such facts that establish that there was lack of reasonable care and precaution of the Electricity Board in taking measures in preventing such accidents.

6. In para-7 of his cross-examination he has stated that the defendant No. 2 had not taken any permanent or temporary connection from the Electricity Board and it was not in the knowledge of the Electricity Board that the defendant No. 2 is indulging in theft of energy by taking electricity supply to his farm without any connection. He admitted that the death of deceased took place by the defendant No.2 pulling illegal bare wire from the electricity pole to his farm. He admitted that thereafter no action has been taken against the defendant No.2 for having caused theft of electricity.

7. Therefore from a perusal of the deposition of DW-1 Shri R. K. Jain, it is clear that the appellants admit that the accident took place from the electricity wires illegally pulled by defendant No.2 but pulled from the electricity pole of the appellants. He further admitted lack of resources with the Electricity Board to prevent such accidents.



8. The case of the plaintiffs also was the same and PW-1 Anju Kori in para-10 of her cross-examination has stated that wires were taken by the defendant No.2 to his borewell in his farm and they were passing through the farm of Ram Mani which had been taken on contract by the deceased who was husband of this witness. She stated that the said illegally pulled electric wire was lying on the ground from which her husband got electrocuted. She denied that her husband died by any other cause.

9. This Court has gone through the spot map which was prepared during investigation of crime upon registration of FIR relating to the present matter. From the spot map Ex.P-8 it is evident that the illegally pulled wires were taken up to a distance of 0.75 kilometre i.e. about 750 metre from the electricity pole. Such type of wires to the distance of 750 metres were being pulled by a person in the village and such illegal pulling of wires to a distance of 750 metres could not have been done in a single night. It depicts that theft must have been taking place since a long time. Therefore, the defence of the appellants could not be accepted that in the night if somebody has pulled some illegal wire then it cannot be monitored night and day by the Electricity Board. The manner in which the spot map depicts the illegal wires to be pulled makes it evident that it was not done in a single night or in a single day, but it was a planned attempt of theft of electricity and the Electricity Board even did not register any case of theft against the said person, though it took the defence that the sole liability in the accident lies with the defendant No. 2.

10. It is well settled in law that electricity is a dangerous commodity



and a person dealing with dangerous commodity has strict liability and the negligence of the person dealing with dangerous commodity is not required to be proved or established in case the accident takes place by leakage, pilferage or escape of the dangerous commodity. Strict liability lies on the person dealing with dangerous commodity.

11. In the present case none of the established exceptions to strict liability could be established by the defendant No.1/ present appellant either in its written statement or in the evidence before the trial Court. Even the act of third party, i.e. Defendant No.2 was made possible when there was active negligence of the appellant to maintain their supply system and take measures to prevent such malpractices. The Hon'ble Apex Court has applied the principle of strict liability in the cases of electrocution deaths in the case of *Madhya Pradesh Electricity Board Vs. Shail Kumari, (2002) 2 SCC 162*. The Hon'ble Supreme Court has held that so long as transmission of electricity poses foreseeable risk of danger to human life, the supplier bears primary liability to compensate, irrespective of negligence. It was held as under :-

2. The supplier of electricity in a locality is striving to squirm out of the liability to compensate the dependants of the sole victim of a snap electrocution. The supplier, Madhya Pradesh Electricity Board (for short "the Board") pleads that the electrocution was due to the clandestine pilferage committed by a stranger unauthorisedly siphoning the electric energy from the supply line and hence the wrongdoer alone should be mulcted with the burden of damages. In a suit filed by the dependants of the victim the trial court agreed with the Board in regard to the aforesaid contention, but the High Court disagreed and directed the Board to pay the amount of damages assessed. The said judgment of the High Court of Madhya Pradesh is now under challenge in this appeal. After hearing learned counsel for the Board we do not find the necessity to seek the help of the respondents in deciding this appeal and hence service of notice on



the respondents is dispensed with.

4. When the action was brought by his widow and minor son, nobody disputed the fact that Jogendra Singh died at the place and at the time mentioned by the claimants. Nor has it been disputed that he was electrocuted by the live wire lying on the road. The main contention advanced by the appellant Board is that one Hari Gaikwad (third respondent) had taken a wire from the main supply line in order to siphon the energy for his own use and the said act of pilferage was done clandestinely without even the notice of the Board; and that the line got unfastened from the hook and it fell on the road over which the cycle ridden by the deceased slid resulting in the instantaneous electrocution.

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8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as “strict liability”. It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.

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13. In the present case, the Board made an endeavour to rely on the exception to the rule of strict liability (Rylands v. Fletcher [(1868) 3 HL 330 : (1861-73) All ER Rep 1]) being “an act of stranger”. The said exception is not available to the Board as the act attributed to the third respondent should reasonably have been anticipated or at any rate its consequences should have been prevented by the appellant-Board. In Northwestern Utilities Ltd. v. London Guarantee and Accident Co. Ltd. [1936 AC 108 : 105 LJPC 18 : 154 LT 89] the Privy Council repelled the contention of the defendant based on the aforecited exception. In that case a hotel belonging to the plaintiffs was destroyed in a fire caused by the escape and ignition of natural gas. The gas had percolated into the hotel basement from a fractured welded joint in an intermediate pressure main situated below the street level and belonging to the defendants which was a public utility company. The fracture was caused during the



construction involving underground work by a third party. The Privy Council held that the risk involved in the operation undertaken by the defendant was so great that a high-degree care was expected of him since the defendant ought to have appreciated the possibility of such a leakage.

12. In view of the aforesaid, this Court does not find any good reason to interfere in the impugned judgement and decree passed by the trial Court. The same is confirmed. The appeal fails and is **dismissed**. No order as to costs. Let decree be drawn up accordingly

(VIVEK JAIN)
JUDGE

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