

**HIGH COURT OF JUDICATURE AT ALLAHABAD****FIRST APPEAL No. - 118 of 2014**

U.P. State Power Corp. Ltd.

.....Appellant(s)

Versus

Moh. Nisar Alias Bade Lalla

.....Respondent(s)

Counsel for Appellant(s) : Shivam Yadav

Counsel for Respondent(s) : Ajay Kumar Srivastava, Jitendra Pal Singh, Pradeep Kumar Singh

A.F.R.**Court No. - 39****HON'BLE SANDEEP JAIN, J.**

1. The instant appeal has been filed by the defendant-appellant UP State Power Corporation Limited under Section 96 C.P.C. against the impugned judgment and decree dated 28.11.2013 passed by M.A.C.T./Additional District Judge, Court No.1, Pilibhit in O.S. No.40 of 2009 (Mohd. Nisar @ Bade Lalla vs. U.P. State Power Corporation Limited), whereby for the injuries suffered by the plaintiff on 02.01.2007 when he was electrocuted from the high tension electricity line of the defendant, a compensation of Rs.3,87,500/- along with pendentelite and future interest @ 5% per annum has been awarded to the plaintiff.

Plaint Case

2. It is the case of the plaintiff that he is a labourer, who was earning about Rs.150/- per day at the time of the accident . On 02.01.2007 at about 1:30 p.m., when he was standing near a shop opposite his house, a live over-head high voltage electric wire, which passed above suddenly broke down and electrocuted the plaintiff, causing extremely severe burn injuries to him. It was further averred that he was taken to P.H.C. Puranpur and thereafter, was shifted to Bharat Rashmi Nursing Home, Pilibhit. In the said nursing home, he remained under treatment where his left hand was amputated to save his life. It was further averred that the electrocution also caused very severe injuries on other parts of his

body and also on his throat & neck. It was further averred that he has incurred an expenditure of Rs.1,00,000/- on his treatment, which was still continuing. It was further averred that there exists a hole in his throat and his condition is still unstable and due to the injuries suffered in the electrocution, he has suffered permanent disability. It was further averred that in order to meet the treatment expenses, he has arranged substantial amount from his relatives and friends. It was specifically averred that due to the injuries caused due to electrocution, he has suffered severe burn injuries on the neck and throat, chest, left hand, right hand and the electric shock has affected his brain, memory and speech. It was further averred that due to the injuries suffered by him, he has suffered 65% permanent disability. It was further averred that the defendant was careless and negligent in not maintaining its electric transmission line and due to its non-repair and non-maintenance, the accident occurred, as such, the liability is on the defendant to pay compensation for the injuries suffered by him.

3. It was further averred that since the date of the accident, i.e., 02.01.2007, the plaintiff has suffered a loss of earnings amounting to Rs. 30,000/- up to the filing of the suit (calculated @ Rs. 125/- per day). He has further suffered a loss of future earnings of Rs. 10,00,000/-, loss of amenities of life amounting to Rs. 50,000/-, and has incurred Rs. 1,00,000/- on his treatment. Additionally, he is likely to incur future medical expenses of Rs. 4,00,000/-. Thus, in total, the plaintiff has suffered a loss of Rs. 15,80,000/-, but has restricted his claim to a sum of Rs. 6,80,000/- along with interest. It was further averred that the defendant had due knowledge of the accident, as the same was published in the daily newspaper Dainik Jagran dated 03.01.2007, and information was also provided to the defendant as well as to the State Government; however, the defendant failed to pay any compensation to the plaintiff.

4. In the above backdrop, the plaintiff claimed the following reliefs:-

"a. That a decree be passed in favour of the plaintiff and against the defendant for the recovery of a sum of Rs.6,80,000/- with interest pendentelite and future @ 24% per annum.

b. That such other and higher amount may also be awarded to the plaintiff against the defendant which this court may deem just and proper in the circumstances of the case.

c. That plaintiff may be awarded the costs of the suit against the defendant."

Written Statement of the defendant

5. The defendant U.P. State Power Corporation Limited filed its written statement 20-A before the trial court in which the plaintiff's averments were denied. It was averred that regarding the alleged incident dated 02.01.2007, no complaint/application was given to the defendant or its officials or servants. It was further averred that no high-tension electricity line, as alleged, ever broke down, nor was there any negligence on the part of the defendant in maintaining the high-tension electricity line. It was further averred that if any high-tension electricity line breaks down, the electricity supply is automatically switched off; therefore, the allegation of the plaintiff that he suffered electrocution from a broken electricity line is false. It was further averred that the alleged accident occurred due to some other reason, for which the defendant was not liable to pay any compensation to the plaintiff. It was further averred that the plaintiff has not filed any documentary proof of his treatment and injury report in order to prove that he has suffered any permanent disability due to the alleged injuries sustained in the accident. It was further averred that regular patrolling of the high tension electricity line was conducted by the defendant and if any fault was found then it was immediately rectified. It was further averred that the plaintiff was not entitled to any compensation from the defendant.

6. It was further averred that the plaintiff has filed a claim before the Collector, Pilibhit for getting compensation on 21.01.2008, which was Case No.11/2008-09 but this fact has not been disclosed in the plaint, as such, the plaintiff cannot claim compensation from two different courts. It was further averred that in the case filed before the Collector, Pilibhit, the plaintiff has disclosed that the accident occurred in a different manner than what was disclosed in the plaint, which also shows that the alleged accident was doubtful. It was admitted that consumer/plaintiff connection number 4121/307035 is below 11 kv Simaria T OFF on Sherpur Feeder. It was further averred that the alleged accident is forged and fabricated and no such accident has occurred. It was lastly averred that even if it is proved that the alleged accident indeed occurred, even then, the plaintiff was entitled to get a

maximum compensation of Rs.50,000/- on account of alleged permanent disability suffered by him as ex-gratia amount.

Issues framed

7. On the basis of the pleadings of the parties, the following issues were framed:-

"(i) Whether on 02.01.2007 at about 1:30 p.m. within kasba and police station Puranpur, District Pilibhit, due to the negligence of the employees of the opposite party, a high voltage electric wire broke and fell on the plaintiff, due to which the plaintiff suffered 65 percent fatal burn injuries and became permanently disabled?"

(ii) Whether the plaintiff is entitled to get a compensation of Rs.6,80,000/- or any other compensation from the defendant?"

(iii) Whether the plaintiff is entitled to any other relief from the defendant?"

Documentary Evidence of the parties

8. The plaintiff in documentary evidence filed the certified copy of the order dated 20.06.2011 passed by the Collector, Pilibhit in Case No.11/2008-09 (Ext.1), the original cash memos of medicines purchased by him, photocopy of his discharge certificate issued by Rohilkhand Medical College & Hospital, Bareilly, photocopy of permanent disability certificate dated 12.09.2007 disclosing 65% permanent disability, the original discharge certificate issued by Bharat Rashmi Nursing Home dated 19.02.2007, photocopy of the extract of the newspaper Dainik Jagran dated 03.01.2007 which disclosed that the accident occurred on 02.01.2007.

9. The plaintiff was examined on 2.1.1.07 at 1:30 PM at PHC, Puranpur and in his injury report the following injuries were noted:-

"(i) Electric burn wound 14 x 11 cm over face and chin, skin deep.

(ii) Electric burn 12 x 5 cm x bone deep in front of neck extending right side.

(iii) Electric burn wound 13 x 6 cm x bone deep on back of right hand and wrist joint movement normal.

(iv) Electric burn wound 20 x 8 x bone deep on left hand back including wrist joint movement normal and painful.

(v) Electric burn wound 3 x 2 x bone deep on right big toe movement full and

painful.

(vi)Electric burn wound 25 x 8 x muscle deep on front of left thigh.

Opinion: *All injuries caused by electrocution nature KUO. Referred to District Hospital, Pilibhit for expert surgical management, duration fresh. First-aid given."*

10. The defendant has not filed any documentary evidence.

Oral Evidence of the parties

11. The plaintiff Mohd. Nisar @ Bade Lalla examined himself as PW-1, Mohd. Iqbal as PW-2 and Dr. Bharat Sethi as PW-3 whereas, the defendant examined its lineman Rampal as DW-1 and patrolman Akhilesh Mishra as DW-2.

12. The plaintiff Mohd. Nisar @ Bade Lalla PW-1 in his examination-in-chief deposed the averments made in the plaint and also proved the documents submitted by him before the trial court.

13. PW-1 Mohd. Nisar @ Bade Lalla in his cross examination admitted that neither he registered any F.I.R. regarding the incident nor made any complaint to the higher officials. He also admitted that no notice was given to the electricity department. He deposed that he worked as a mason. He was standing at the road which was in front of his house, which was adjoining to his house and was 14 feet wide. He disclosed that at the time of the accident, people were not moving on the road but were sitting at the shop. He deposed that the electricity wire, which was coming towards his house was broken at 12:00- 01:00 p.m., which fell on his chest and hand, which was of 11,000 volts. He disclosed that he regained consciousness in Pilibhit. He was not aware who took him to Pilibhit. In Pilibhit, he was admitted in a Government Hospital, where he remained for 3-4 days. He further disclosed that he regained consciousness 3-4 days after the accident, when he was in the hospital of Bharat Sethi, where he remained admitted for 30-35 days. He has filed the medical bills of his treatment which are computer generated, which have not been signed by anyone. He further disclosed that during his treatment, the medicines were purchased by his father. He disclosed that the disability certificate was got prepared by him. He further disclosed that about one - one

and half years back he went for treatment to Bareilly Rohilkhand Medical College, Bareilly because he had a whole in his throat. He denied the suggestion that a high tension electricity line of 11000 volts was not going in front of his house, which had not snapped. He denied the suggestion that he was committing theft of electricity at his house, during which he got electrocuted. He also denied the suggestion that all the bills of treatment filed by him were forged. He also denied the suggestion that he has filed a false case for getting compensation from the defendant.

14. PW-2 Mohd. Iqbal deposed in his examination-in-chief that his maternal uncle resided two houses adjoining to the plaintiff's house in mohalla Ahmad Nagar where he frequently used to visit. On 02.01.2007, when he was at his maternal uncle's house, then at about 1:00 - 1:30 p.m., he suddenly heard a commotion upon which he came outside his house and saw that the plaintiff Mohd. Nisar was lying on the road in a severely burnt condition on whom a broken electricity wire was lying. He further deposed that the left hand and neck of plaintiff Mohd. Nisar was severely burnt and he was unconscious, who was taken by the nearby people to the Government Hospital, Puranpur and from there he was taken to Bharat Rashmi Nursing Home, Pilibhit where his left hand was amputated in order to save his life. He further deposed that Mohd. Nisar was a labourer, who used to earn about Rs.150/- to Rs.200/- per day, but after the accident since he has lost his one hand and there is also a hole in his throat, as such, he is unable to do any work. He further deposed that the plaintiff's family consists of his mother, three sisters and five younger brothers, in which the plaintiff was the eldest and two months after the accident, the plaintiff's father also died due to shock. He further deposed that the incident occurred because the electricity line were not properly maintained and repaired by the defendant for which the defendant is entirely responsible.

15. PW-2 Mohd. Iqbal in his cross-examination deposed that each day he did labour work from 8:00 a.m. till 5:00 p.m. He disclosed that he was neither a relative of the plaintiff nor he used to visit the plaintiff's house. He further deposed that neither he saw the electricity line lying broken prior to the incident, on the alleged spot nor he saw the electricity line snapping but he disclosed that he and plaintiff used to do labour work together and about five years

back, they used to earn Rs.100/- per day from labour work. He further disclosed that high tension means where the electricity line is of 11000 volts. He denied the suggestion that since he used to work with plaintiff, he was giving a false testimony and he also denied the suggestion that he did not accompany the plaintiff to Puranpur Hospital. He further disclosed that the treatment of the plaintiff was undertaken from the contribution made by all the residents of his locality. He further disclosed that about 5-6 people took the plaintiff to Puranpur Hospital, who undertook the plaintiff's treatment.

16. Dr. Bharat Sethi was examined as PW-3, who deposed in his examination-in-chief that he is MBBS and has obtained his MS Degree from King George Medical College, Lucknow in Orthopedics and he is running his nursing home in Pilibhit since the year 1998 and he treated Mohd. Nisar, who suffered injury due to electrical burns in his left hand due to which gangrene developed and there was no option except to amputate his hand and if the hand had not been amputated, then poison would have spread in the body. He deposed that plaintiff Mohd. Nisar remained admitted in his nursing home from 09.01.2007 till 19.02.2007 and during this period, the hand of the plaintiff was amputated. He further deposed that Diamond Medicos is a shop which is situated in his nursing home, which had given medicines to the plaintiff on his prescription. This witness has proved the original cash memos issued by Diamond Medicos, which are on record as paper No.C-34/1 to C-34/41, which were computer generated. He further deposed that the discharge certificate, which was paper No.C-60 on record was issued by him, which was in his handwriting.

17. PW-3 Dr. Bharat Sethi in cross-examination deposed that he is not a bone specialist nor burn injury specialist but he reiterated that he was an Orthopedist. He further disclosed that in the discharge certificate paper No.C-60 he has advised treatment to the plaintiff. He admitted that for any reason, gangrene can occur in a wound. He further disclosed that the plaintiff arrived at his nursing home after being discharged from the District Hospital.

18. The defendant examined Rampal, the lineman of Puranpur Sub-Station as DW-1, who deposed in his examination-in-chief that on 02.01.2007, the electricity line of the defendant was perfectly in

order, there was no fault in the supply of electricity, there was no complaint of any electricity line being broken. He deposed that whenever the main electricity line is broken then the flow of electricity is automatically stopped. He further deposed that there was neither any high tension electricity line near the alleged place of accident nor the accident occur due to snapping of the electricity wire but it occurred due to some other reason, for which the defendant was not liable. He further deposed that he is a lineman by profession whose job is to maintain the electricity lines. He further deposed that in the alleged accident there was no negligence of the defendant because it did not occur due to snapping of the electricity line and even after the occurrence of alleged accident, no written information of it was received by the defendant. It was further deposed that with a malafide intention the plaintiff has filed the instant suit. He further deposed that the alleged accident did not occur due to high tension electricity line because it was not present at the spot of accident and even the low tension electricity line was at a distance from the alleged spot of accident.

19. DW-1 Rampal deposed in his cross-examination that he used to regularly check the electricity line. He further deposed that in a high tension electricity line the voltage is 11000 volts or higher and in a low tension electricity line, the voltage is 440 or 220 volts. He admitted that at the alleged place of accident in Puranpur, there was a high tension line. He further admitted that a movement register is maintained in which it is recorded when the electricity line has been checked, but due to heavy rainfall that register has been damaged in the year 2007, which was not available. He admitted that Akhilesh Mishra was a patrolman at that time and he has seen the house of the plaintiff which is in Mohalla Ahmad Nagar, kasba Puranpur. He also admitted that at the time of the alleged accident, a high tension electricity line was passing from Puranpur to Sherpur and the distance between them was about four kilometer, which is a rural electricity feeder. He further disclosed that if within the city limits, the high tension electricity line is snapped then automatically the flow of electricity is stopped. He denied the suggestion that in rural areas the flow of electricity is not stopped automatically when the high tension electricity line is snapped. He also denied the suggestion that the plaintiff's house is situated beneath a high tension electricity line and the plaintiff

sustained injuries due to snapping and falling of the electricity line on him. He also denied the suggestion that the high tension electricity line was broken and it was got repaired by the defendant.

20. The defendant examined its patrolman Akhilesh Mishra as DW-2, who deposed in his examination in chief that at the time of the alleged accident, he was working as a patrolman in Puranpur but on 02.01.2007 or prior to it, no information was received by the defendant regarding any fault in the electricity line or the line being broken and even after the alleged accident, no such complaint was received. He further deposed that during patrolling, no fault in the electricity line was ever found. He further deposed that if an electricity line is broken then it automatically becomes dead. He further deposed that the alleged accident did not occur due to fault in the electricity line because no high tension electricity line was situated near the alleged place of accident and the low tension electricity line was far away. He further deposed that in the alleged accident, there was no negligence of the defendant or its employees and the accident occurred due to own negligence of the plaintiff for which he is alone responsible.

21. DW-2 Akhilesh Mishra in cross-examination deposed that in Puranpur City there are several high tension electricity line which go towards Sherpur and Shahgarh. He admitted that in mohalla Ahmad Nagar after the erection of high tension electricity line, some persons have constructed their houses beneath it. He also admitted that from time to time faults do occur in the high tension electricity line and on getting complaint, the fault is immediately rectified, which is entered in the movement register. This witness could not recollect how many times in the year 2006-07, complaints regarding faults in high tension electricity line or electricity line being broken were received and how many times he went to rectify it. This witness deposed that without perusing the movement register, it was not possible to answer it, which remains with the officials of the defendant.

Reasoning of the Trial Court

22. The trial court, after considering the aforesaid oral and documentary evidence on record, concluded that the accident occurred on 02.01.2007 when a high-tension electricity line

snapped and suddenly fell upon the plaintiff, as a result of which he suffered severe electrocution burn injuries. Consequently, gangrene developed in his left hand, leading to its amputation, and he thereby suffered 65% permanent disability. The trial court also considered that the Collector, Pilibhit in its order dated 20.06.2011 has allowed the plaintiff's claim under Public Liability Insurance Act, 1991 and has awarded a compensation of Rs.12,500/- to the plaintiff, which has not been challenged by the defendant by filing any appeal. The trial court disbelieved the evidence of DW-1 and DW-2 that no accident as alleged by the plaintiff occurred. The trial court concluded that the plaintiff has spent more than Rs. 1,00,000/- on his treatment and, accordingly, awarded this amount towards medical expenses. The trial court further awarded Rs. 50,000/- towards pain, suffering, and special diet. The trial court also considered that the plaintiff's left hand was amputated due to gangrene, as a result of which he suffered 65% permanent disability, as per the disability certificate. It further observed that the plaintiff was a labourer earning at least Rs. 200/- per day at the time of the accident and, by assuming that the amputation resulted in 50% earning capacity loss, assessed the compensation for loss of earning due to permanent disability at Rs. 2,50,000/-. In this way, the trial court has awarded a compensation of Rs.4,00,000/- (1,00,000+50,000+2,50,000) to the plaintiff from which an amount of Rs.12,500/- awarded by the Collector has been adjusted and after adjustment has directed the defendant to pay Rs.3,87,500/- to the plaintiff with pendentelite and future interest @ 5% per annum, aggrieved against which, the defendant has filed the instant appeal under Section 96 C.P.C.

Submissions of the learned counsel for the parties

23. Sri Shivam Yadav, learned counsel for the defendant-appellant submitted that no evidence was adduced by the plaintiff to prove that the alleged accident occurred on 02.01.2007. It was further submitted that the burden was upon the plaintiff to prove that a live high tension electric line of the defendant snapped and fell upon him and he was electrocuted from it. Learned counsel further submitted that if any high tension electricity line snaps then automatically the electric supply is switched off, as such, no question arises of getting electrocuted in this situation, but the trial court has held otherwise. It was further submitted that the burden

was upon the plaintiff to prove the treatment expenses incurred by him by submitting the original prescription of the doctors, cash memos of the medicines purchased and the permanent disability suffered by him in the accident but it was never proved, but still the trial court has held otherwise. It was further submitted that it was incumbent upon the plaintiff to prove that the accident occurred due to the negligence of the officials and employees of the defendant, who failed to maintain the high tension electricity line properly but this burden was never discharged by the plaintiff, but still the trial court has held otherwise. It was further submitted that the plaintiff's left hand was amputated due to gangrene, which was not caused by the alleged injuries, but due to negligence of the plaintiff and his doctors in his treatment, for which the defendant is not liable. It was further submitted that the manner in which the accident was shown to have occurred in the plaint, was altogether different from the case set up before the Collector, Pilibhit, as such, the whole case of the plaintiff was doubtful, which was liable to be rejected on this sole ground but still the trial court has overlooked this contradiction and has decreed the plaintiff's suit. It was further submitted that if this Court is of the opinion that the plaintiff has proved the accident, then the trial court has awarded excessive compensation to the plaintiff which was not warranted in the facts and circumstances of the case. With these submissions, it was prayed that the appeal be allowed and the plaintiff's suit be dismissed.

24. None is present for the plaintiff-respondent.

25. I have heard the learned counsel for the defendant-appellant and perused the record of the trial court.

Issues for determination before this Court

26. The following issues arise for determination in this appeal:-

"(i) Whether the plaintiff suffered injuries due to electrocution from the high tension electricity line of the defendant?"

(ii) Whether there was nexus between the gangrene caused and consequent amputation of the plaintiff's left hand below elbow with the electrocution injuries suffered by plaintiff?"

(iii) Whether the plaintiff was required to prove the negligence of the

employees of the defendant?

(iv) Whether the trial court has awarded excessive compensation to the plaintiff?"

Conclusion of this Court

27. The Apex Court in the case of ***Parvati Devi and Others vs. Commissioner of Police, Delhi and others (2000) 3 SCC 754***, held as under:-

"2. The appellants moved the High Court of Delhi claiming compensation as the husband of Appellant 1 died on account of electrocution while walking on the road. That the death was on account of electric shock is established in view of the CFSL report from Calcutta. But as the appellants could not produce relevant materials indicating the negligence of any particular officer of the authority, the High Court refused to award compensation. It is against this order, the present appeal has been filed. **Once it is established that the death occurred on account of electrocution while walking on the road, necessarily the authorities concerned must be held to be negligent, and therefore, in the case in hand, it would be NDMC who would be responsible for the death in question.** It is found from the records that the appellant was serving as a machineman in The Statesman and was aged 54 years on the date of death, and the age of retirement is 60 years. Taking these factors into consideration, we direct that the appellants, who are the legal heirs of the deceased, be awarded compensation to the tune of Rs 1,00,000 and NDMC should pay the same within 3 months from today failing which it will carry interest at the rate of 12 %. This should be in total satisfaction of the compensation for the legal heirs of the deceased."

(emphasis supplied)

28. The Apex Court in the case of ***MP Electricity Board vs. Shail Kumari (2002) 2 SCC 162***, while interpreting the principle of strict liability in a case where death was caused due to electrocution, held as under:

"7. It is an admitted fact that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Board. If the energy so transmitted causes injury or death of a human being, who gets unknowingly trapped into it the primary liability to compensate the sufferer is that of the supplier of the electric energy. So long as the voltage of electricity transmitted through the wires is potentially of dangerous dimension the managers of its supply have the added duty to take all safety measures to prevent escape of

such energy or to see that the wire snapped would not remain live on the road as users of such road would be under peril. It is no defence on the part of the management of the Board that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is the lookout of the managers of the supply system to prevent such pilferage by installing necessary devices. At any rate, if any live wire got snapped and fell on the public road the electric current thereon should automatically have been disrupted. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.

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 case 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."

29. This Court in the case of **Smt. Sunita Tiwari vs. State of UP and others Neutral Citation No.2010:AHC:83628**, while interpreting electricity as "hazardous substance" irrespective of its proportion under the Public Liability Insurance Act, 1991, where rule of strict liability is applicable, held as under:-

"This Court in the case of U.P. State Electricity Board vs. District Magistrate, Dehradun, 1997 UPLBEC (2) 1344, has already considered the issue that electricity falls within the definition of "hazardous substance" and the accident, caused on account of it, is covered under the provisions of the Public Liability Insurance Act, 1991. Relevant extract of the judgment, as contained in paragraphs 42 to 44, is being quoted below:

"42. Hence in my opinion 'hazardous substance' as defined in Section 2 (d) of the 1991 Act is not to be confined to a substance specified in the notification issued by the Central Government, but it includes all substances which come under the definition of 'hazardous substance' under the Environment (Protection) Act, 1986, with this exception that if any such substance is also

notified by the Central Government under Section 2 (d) of the 1991 Act then it will be a 'hazardous substance' only if it exceeds the quantity specified in the said notification. Thus the notification issued by the Central Government under Section 2 (d) of the 1991 Act can only narrow down the scope of 'hazardous substance' as defined under the Environment (Protection) Act, 1986, but substances which are not specified in the said notification will nevertheless be regarded as 'hazardous substances' under the 1991 Act if they come within the definition of 'hazardous substances' under the Environment (Protection) Act, 1986.

43. I have already stated above that electricity is "hazardous substance" as defined under the Environment (Protection) Act, 1986 and hence I reject the submission of the learned counsel for the petitioners that it is not a hazardous substance since it has not been included in the Notification dated 24-3-1992.

44. THE principle of strict Liability Section 3 (2) of the 1991 Act places a strict liability (liability without fault) in cases of such accident due to 'hazardous substances' and it is not necessary for the claimant to plead that the death or injury was caused by wrong or negligent act of any person....."

30. This Court in the case of *Yashpal Singh (Minor) vs. State of UP Thru. Princ. Secy.(Electricity) and 5 Others 2017 SCC OnLine ALL 1246*, where death was caused due to contact with a live wire on account of the negligence and laxity of the functionaries of the Electricity Department, who failed to maintain the supply lines and take necessary precautions, held as follows:

"27. The electricity authorities are duty bound to observe precautions/safeguards under the provisions of the Indian Electricity Act and the Rules framed thereunder. Failure of such statutory functions/duties tantamounting to negligence cannot be overcome by alleged statutory obligations on the part of the consumer of the electricity. Electrocutation by live wires necessitates strict liability and differs from liability arising on account of negligence and is not relevant in cases of strict liability. The electricity department is liable irrespective of the fact whether the harm could have been avoided by the consumer or injured by taking precautions.... "

31. The High Court of Rajasthan in the case of *Ajmer Vidhyut Vitran Nigam Ltd. Vidyut Bhawan, Jyoti Nagar, Jaipur and Others vs. Sohani Jat and Others 2022 SCC OnLine Raj 2265*, held as under:-

"13. From the factual matrix of this case negligence on the part of defendants

by non maintaining High Voltage Electricity Line of 11,000 KV at the appropriate height is clear. At the site wires of High Voltage Electricity Line of 11,000 KV were loose and wire broken due to which heavy electricity passed in the pump-set of deceased and he was electrocuted. Once it is established that wire of High Voltage Electricity Line of 11,000 KV was broken due to which deceased got electrocuted, the principle of strict liability and vicarious liability comes in play. The defendants would be strictly and vicariously liable to compensate persons affected by accidents without being any fault of their and due to negligence on the part of department."

(emphasis supplied)

32. The Gujarat High Court in the case of ***PGVCL and Another vs. Devsinhbhai Arjanbhai Hadiya and Another 2025 SCC Online Guj 4823***, held as under:-

"8. Negligence in electrocution cases is often established through the failure of the electricity board or their officers in non-maintaining a high standard care in managing electrical infrastructure. Failure to repair or maintain equipment, resulting in accidents like electrocution, principle of strict liability is often applied because electricity is considered inherently Dangerous activity. Electricity providers have an utmost duty of care to ensure that lines and equipments are safe. This includes proper installation, maintenance and repair of all electrical infrastructure. If there is evidence of failure to meet these duties of care, it tantamounts to negligence on the part of electricity provider. The breach of duty must have directly caused the electrocution. Broken high voltage wires, open or exposed electrical wires, poor maintained poles or other infrastructure, lack of safety measures like warning signs where contact is possible are the instances of failure in taking utmost good care of electrical infrastructure and on proving such failures would invite a liability of compensating the victim or their legal representatives.

9. In Law of Torts, negligence means failure to exercise the standard of care that reasonable person would exercise in a similar situation, which results in harm or injury to another person. To prove negligence important elements such as a duty to the plaintiff, a breach of that duty, causation and damages are to be established. In the present case, the evidence indicates that plaintiffs have succeeded on all four counts and the oral deposition of the appellant is sufficient evidence in holding the appellants liable for compensation."

33. It is apparent from the law laid down by the Apex Court in ***Parvati Devi*** (supra) and ***Shail Kumari*** (supra) and High Courts in other cases, that in cases of electrocution by broken electricity line,

the principle of strict liability is applicable and for obtaining compensation in such cases, the plaintiff is not supposed to prove that the Electricity Board or Power Corporation was negligent in maintaining the high tension electricity lines, which snapped due to the fault of the Board/Corporation. It is well settled that in cases of strict liability, the negligence of the defendant or its servants/employees is not to be proved. The plaintiff is only required to prove that he died or suffered injuries due to electrocution from the high tension electricity line of the defendant.

34. It is the plaintiffs case that on 2.1. 2007 at about 1:30 p.m. when he was standing near a shop outside his house then a live overhead high-voltage electric wire, suddenly snapped and fell on him due to which he was electrocuted and suffered serious burn injuries, he was taken to Primary Health Centre(PHC), Puranpur and then shifted to Bharat Rashmi Nursing Home, Pilibhit, where he remained admitted and his left hand was amputated in order to save his life.

35. The plaintiff has specifically averred in his plaint that due to electrocution he suffered burn injuries on his neck, throat, chest, left-hand, right hand and he also suffered electric shock, which affected his brain, memory and speech. The plaintiff claimed that he has suffered 65% permanent disability due to the injuries suffered in the accident. It is the case of the plaintiff that the above accident occurred due to the negligence of the defendant ,who failed to maintain the high tension electricity line properly, hence, the defendant was responsible for the alleged accident.

36. The plaintiff has examined himself as PW-1 who has reiterated the plaint case in his examination-in-chief and has specifically averred that due to the injuries suffered in the accident, in order to save his life, his left hand was amputated. Besides this, he also suffered serious injuries in his throat and neck. The plaintiff has also proved his permanent disability certificate dated 12.9.2007, which was issued by CMO Pilibhit. The plaintiff has also deposed that his trachea was operated ,because he was facing difficulty in breathing, in Rohilkhand Medical College and Hospital, Bareilly, where he remained admitted from 19.1.2010 till 2.2.2010. In the cross-examination the plaintiff has been suggested that he was committing theft of electricity in his house then he was

electrocuted, which proves that the defendant has admitted that he suffered electrocution.

37. The testimony of plaintiff PW-1 is corroborated by Mohd Iqbal PW-2 who deposed in his examination chief that on 2.1.2007 at about 1 –1:30 p.m. he heard commotion outside his house, then he came outside and saw that the plaintiff was lying on the road in a badly burned condition, on which an electric wire was lying. He also deposed that he saw plaintiffs left-hand and neck were badly burned, who was also unconscious. This witness further deposed that the plaintiff was taken by the nearby people to the Government Hospital, Puranpur and from there he was taken to Bharat Rashmi Nursing Home, Pilibhit where his left hand was amputated. This witness has further deposed that due to amputation of one hand and a hole in his throat, the plaintiff has become disabled. This witness has also deposed in cross-examination that he is neither a relative of the plaintiff nor he used to visit plaintiffs house. This witness also deposed that all the residents of the locality, where plaintiff resided, contributed to get the plaintiff treated.

38. The plaintiff has examined Dr. Bharat Sethi PW-3, who treated him at the Bharat Rashmi Nursing Home, Pilibhit who proved that due to the electrical burn injuries gangrene developed in the left-hand of the plaintiff and in order to save plaintiffs life, his left hand was amputated, otherwise poison would have spread in the body. This witness proved that the plaintiff remained admitted in his Nursing Home from 9.1.2007 to 19.2.2007 during which, plaintiffs left-hand was amputated. This witness also proved the cash memos issued by Diamond Medicos, in respect of the medicine purchased by the plaintiff for his treatment and the discharge certificate issued by his Nursing Home, which disclosed that the plaintiff suffered post-electric burn gangrene in his left hand, grossly infected wound in neck, right hand and right lower limb, for which his left hand was amputated below elbow, skin grafting was done on right hand and right thigh.

39. The plaintiff has also filed discharge card issued by Rohilkhand Medical College and Hospital, Bareilly, according to which he remained admitted in the hospital from 19.1.2010 till 2.2.2010 for FUC of post burn electric tracheostomy, where he was operated on 25.1.2010. The plaintiff has also filed his disability certificate dated

12.9.2007 issued by the CMO, Pilibhit according to which due to below elbow amputation of left forearm, he has suffered 65% permanent disability.

40. From the above evidence of plaintiff PW-1 and PW-2, it is proved that a live high tension electricity line snapped and fell on the plaintiff, who was standing on the road outside his house on 2.1.2007 at about 1 –1:30 p.m, due to which he was badly burnt, the nature of injuries was proved from the injury report of the plaintiff dated 2.1.2007 as well as the treatment papers on record and the evidence of Dr.Bharat Sethi PW-3 who treated him, and due to gangrene in his left hand, amputated it below the elbow.

41. The defendant has examined its lineman and patrolman as DW-1 and DW-2 respectively, who have denied that there was any fault in the electricity line on the date of the alleged accident, which was neither broken nor any complaint in this regard was received at the office of the defendant. They further deposed that if any electric line snaps then automatically the supply of electricity is switched of. Although DW-1 deposed that there was no high tension electricity line near the alleged site of accident and the low tension electricity line was also at some distance but in cross-examination, he admitted that at the site of accident there was a high tension electricity line. DW-1 also admitted that high tension line carries electricity at a voltage of 11,000 Volts or more, whereas, the low tension line is of 220 or 440 Volts. DW-2 admitted in cross examination that in Mohalla Ahmadnagar some people have constructed their houses beneath the high tension electricity line, after the electricity line was established. He also admitted that frequent faults do arise in the high tension electricity line, which are rectified, from time to time, on receiving complaints.DW-2 admitted that a movement register is maintained in which it is noted how many times and when complaints were received, when they were rectified, the nature of complaints, but this register was never produced before the trial court on the pretext that it has been destroyed in heavy rains in the year 2007, as deposed by DW-1 in his cross-examination.

42. It is apparent that in cases of electrocution, the principle of strict liability is applicable and the plaintiff is not required to prove that the accident occurred due to the negligence of the employees

and servants of the defendant in maintaining the high tension electricity line, which snapped due to poor maintenance. The plaintiff has only to prove that he suffered injuries due to electrocution, which he has successfully proved from his evidence, evidence of PW – 2 and PW – 3, as discussed previously.

43. The plaintiff has also filed the certified copy of the order dated 20.6.2011 passed by Collector, Pilibhit in case no. 11/2008-09 Mohd.Nisar alias Bade Lalla vs. U.P. Power Corporation(Exhibit-1) under Public Liability Insurance Act which discloses that the Collector has considered his injury report dated 2.1.2007 according to which he suffered 6 electric burn injuries. The Collector has also considered the newspaper report published in Dainik Jagran newspaper dated 3.1.2007 regarding plaintiffs electrocution, when a live electric wire fell on him. On the basis of documentary and oral evidence, the Collector has held that the plaintiff was indeed electrocuted due to which he has suffered injuries and he was entitled to get reimbursement for the treatment expenses incurred by him. In view of this, Collector has allowed the plaintiffs application and has awarded him ₹ 12,500/- towards reimbursement of medical expenses, to be paid by the defendant. It is apparent that the above order of the Collector, has not been challenged by the defendant, as such, it also corroborates the plaintiffs case of electrocution from a high tension electricity line of the defendant.

44. In the instant case the compensation is to be determined in the same manner, in which it is determined in a motor accident claim case, by considering the occupation of the plaintiff, his monthly income, nature of injuries whether simple or grievous, quantum of permanent disability, the earning capacity loss due to the permanent disability, and he is entitled to get compensation for future loss of earning due to permanent disability, treatment expenses incurred by him and to be incurred in future, compensation for loss of earning due to future prospects, compensation for pain and suffering, loss of amenities, enjoyment of life, special diet and expenditure incurred on transportation.

45. The Apex Court in the case of ***National Insurance Co. Ltd. vs Pranay Sethi and others (2017) 16 SCC 680***, has held that where the deceased/injured is self employed and upto 40 years old, then

he is entitled to compensation towards future prospects @40% of his income. It was further held that a multiplier of 18 is to be applied for determining compensation where the age of the deceased/injured is between 21- 25 years.

46. The Apex Court in the case of ***Sidram vs. Divisional Manager, United India Insurance Co. Ltd. & Another (2023) 3 SCC 439***, while directing that in cases of serious permanent disability, compensation for future prospects should also be awarded, held as under:-

"31. It is now a well-settled position of law that even in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the claimant is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases-and admits such possibility of future prospects, in case of the victim's death."

47. It is apparent that the plaintiff suffered severe burn injuries in his left hand due to electrocution, which is proved from his injury report and the testimony of Dr. Bharat Sethi PW-3, who has deposed that gangrene developed in the infected wound of the plaintiff and in order to prevent the poison from spreading in the body and also to save his life, his left hand below elbow was amputated .

48. It is apparent that had the plaintiff not suffered any injuries in his left hand due to electrocution, then the gangrene would not have developed in his hand and also, the left hand would not have been amputated, in order to save his life. It is apparent that there is a direct nexus between the gangrene/amputation and the injuries suffered by the plaintiff.

49. The plaintiff has proved that he was a mason and was earning about Rs.150/- per day at the time of the accident but due to the amputation of his left hand, he was unable to do any work and his

future has become bleak. Although the plaintiff submitted his permanent disability certificate, according to which the quantum of permanent disability was 65% but the trial court has taken his earning capacity loss, due to disability at only 50%, which is erroneous, because the plaintiff is unable to do any work now. It is apparent that the left-hand of the plaintiff has been amputated below elbow as such, he cannot do the work of mason and labourer, which he was doing prior to the accident, as such, his functional disability is 100%, but since, the plaintiff has not challenged the judgment of the trial court by filing appeal or cross objection, hence, the compensation payable to him cannot be enhanced.

50. The trial court has only awarded a lump-sum compensation of ₹ 2,50,000/- towards loss of future earning due to permanent disability to the plaintiff, but on what basis this figure has been arrived is not clear. At the time of the accident the plaintiff was about 24 years old(multiplier of 18 is applicable) and if his monthly income is taken at ₹ 3,000/- per month and even if his earning capacity loss is taken at 50% even then he was entitled to a compensation of $1,500 \times 12 \times 18 = ₹ 3,24,000/-$ towards loss of future earnings due to permanent disability, but the trial court has only awarded a lump-sum compensation of ₹ 2,50,000/- towards it, which is grossly inadequate, since if the compensation is calculated by taking 100% functional disability, then the compensation to which the plaintiff is entitled is $Rs.3,000 \times 12 \times 18 = Rs.6,48,000$.

51. It is further apparent that the trial court has not awarded any compensation towards loss of earning due to future prospects of the plaintiff. The trial court has only awarded a compensation of ₹ 50,000/- towards pain and suffering, special diet which is also inadequate considering that he suffered amputation of his left hand below elbow. After considering the cash memos of medicine purchased amounting to Rs.13,830/-, prescription of the doctors and discharge card, the trial court has awarded a sum of ₹ 1 lakh towards medical expenses to the plaintiff, which is inadequate, because the trial court has not awarded any compensation towards future medical expenses. In totality, the trial court has awarded less compensation to the

plaintiff, which cannot be reduced any further in this appeal. The trial court has further directed adjustment of ₹ 12,500/- awarded by the Collector Pilibhit to the plaintiff in the case instituted by him under the Public Liability Insurance Act, which is justified.

52. For the aforesaid reasons, the trial court has not committed any illegality in concluding that the plaintiff has suffered injuries due to electrocution from the high tension electricity line of the defendant and awarding compensation of ₹ 3,87,500/- along with pendentelite and future interest @ 5% per annum, which warrants no interference from this Court in exercise of its appellate jurisdiction. The appeal is meritless and is liable to be dismissed.

53. **Accordingly, the appeal is dismissed with costs throughout.** Consequently, the impugned judgment and decree dated 28.11.2013 of the trial court is affirmed.

54. Interim order, if any, stands vacated.

55. Office is directed to send back the record of the trial court.

March 31, 2026
Jitendra

(Sandeep Jain,J.)