

GJBK180002102024



Presented on : 07-02-2024
Registered on : 07-02-2024
Decided on : 10-08-2026
Duration : 2 years, 6 months, 3 days

**IN THE COURT OF
5th ADDL DISTRICT JUDGE AT DEESA,BANASKANTHA
Presided Over by S.M.KANABAR**

RCA/9/2024

Exhibit No.: 10

Appellant:

UTTAR GUJARAT VIJ COMPNY LTD,MAHESANA
Age: 50 Occupation :
Address: SUBDIVISION OFFICE(O AND M) DHANERA,AT-
DHANERA,TA-DHANERA,DI-BANASKANTHA

VERSUS

Respondent:

GANGABEN W/O BHEMABHAI RAVAJIBHAI BHIL
Age: 51 Occupation :
Address: THAVAR,TA-DHANERA,DI-BANASKANTHA

**2:DINABHAI S/O BHEMABHAI RAVAJIBHAI BHIL
Age: 34 Occupation :
THAVAR TA-DHANERA DI-BANASKANTHA**

3:DILIPBHAI S/O BHEMABHAI RAVAJIBHAI BHIL

Age: 30 Occupation :

THAVAR TA-DHANERA DI-BANASKANTHA

4:TARABHAI S/O BHEMABHAI RAVAJIBHAI BHIL

Age: 24 Occupation :

THAVAR TA-DHANERA DI-BANASKANTHA

5:VIMLABEN D/O BHEMABHAI RAVAJIBHAI BHIL

Age: 18 Occupation :

**THAVAR TA-DHANERA DI-BANASKANTHA THAVAR
TA-DHANERA DI-BANASKANTHA THAVAR TA-DHANERA
DI-BANASKANTHA**

Advocate for Appellant: A L SHAIKH

Advocate for Respondent: **I N PATEL**

**JUDGMENT
DELIVERED ON 10/8/2026**

**Subject – Appeal under section 96
read with Order 41 of the
Code of Civil Procedure.**

(1) While preferring the appeal, appellant/original defendant filed the appeal **U/S. 96 read with Order 41 of the Code of Civil Procedure** against the decree passed in favour of plaintiffs by the learned Principal Civil Judge Dhanera in RCS NO. 15/2017 on Dtd.24/8/2022, therefore, he is appellant before this court and original plaintiffs are the respondents before this court.

Pleadings of original plaintiff :-

(2) While preferring the original suit, original plaintiff filed the suit for the Compensation worth of Rs.5,00,000/- for the death of Bhemabhai Ravjibhai Bhill due to electrocution caused due to live electric wire broke and fell on him and he sustained burnt injury, which led to him towards to his death.

Defence of defendant :-

(3) On service of summons to the Defendants, they did not file any written statement. (I HAVE VERIFIED WHOLE RECORD OF LEARNED TRIAL COURT BUT DID NOT FIND ANY WRITTEN STATEMENT)

Reasons for appeal :-

(4) After hearing of both the parties and recording of evidence, learned trial court pleased to PASSED decree in favour of plaintiff, resultant, filling of appeal by the original defendant on various grounds.

Arguments of appellant:-

(5) Learned advocate of appellant argued orally. He alleged the order of learned trial court as illegal and based on defective appreciation of evidenced and without proper evaluation of evidence. He stated that there was no proof of death due to electrocution and denied the proof of income and denied the applicability of loss of income as per MV Act and alleged it as excessive and asked to allow the appeal.

Arguments of Respondent:-

(6) Learned advocate of respondent original plaintiff argued orally and affirmed the legality of the order of learned trial court and asked to reject the appeal.

(7) Points of determination :-

Following points are necessary for the final conclusion of both the appeal.

1. Whether appellants is able to show that learned trial court has made error in appreciation of evidence or application of law to the subject matter?
2. Is there any mistake in the finding given by the trial court on the issues framed by it?
3. Whether the appellants is able to show that the order passed by Principal Civil Judge Dhanera in RCS NO. 15/2017 on Dtd.24/8/2022 Principal Civil Judge Dhanera in RCS NO. 15/2017 on Dtd.24/8/2022 is wrong, illegal and perverse in the eyes of law?
4. What is order?

(8) Decision thereon:-

Sr. No.	Issue
1	In negative.
2	In negative.

3	In negative.
4	As per final order

:- REASONING :-

Issues No. 1 to 3 :-

(9) As the discussion on all the issues are connected and intermingled, hence, all will be discussed under one head.

(10) **Plaintiff filed the suit for compensation of death caused due to electrocution.**

(11) **Defendant side has not raised any defence by filling written statement but he filed evidence. Therefore, the position of law for consideration of evidence of defendant is necessary to note here.**

**(I) EFFECT OF EVIDENCE AND ARGUMENT
WITHOUT PLEADINGS**

* It is well settled in [Anathula Sudhakar vs P. Buchi Reddy \(Dead\) By Lrs. And Ors.](#) (2008) 4 SCC 594 wherein this Court held "no amount of evidence or arguments can be looked into or considered in the absence of pleadings and issues, is a proposition that is too well settled."

* Hon'ble Supreme Court in case of L. Ponnayal @ Lakshmi v. Karuppannan (Dead) Thr. L.R., 17-09-2018 *Citation* : 2018 Latest Caselaw 653 SC held that "Pleadings - Civil Suits are decided on the basis of

pleadings and the issues framed and the parties to the Suit cannot be permitted to travel beyond the pleadings;"

- * Gujarat High Court in case of Harshadbhai Maganbhai Kapadia vs Pravinbhai Paulbhai Mahida on 10 September, 2020 held that "The appellant herein cannot travel beyond the pleadings in the plaint.
- * Delhi High Court in case of Brij Praksh Gupta vs Ashwini Kumar on 6 February, 2020 held that "The law is well settled. A party to the suit cannot be permitted to travel beyond his pleadings. If any evidence is tried to be adduced which has no foundation in the pleadings, the Court always has a power to discard such evidence while finally deciding the suit or proceeding."
- * Supreme Court in Ram Sarup Gupta (dead) by LRs., vs. Bishun Narain Inter College [AIR 1987 SC 1242]: held that "It is well settled that in the absence of pleading, evidence, if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case set up by it. The object and purpose of pleading is to enable the adversary party to know the case it has to meet.

- * In the absence of pleadings, no amount of evidence will assist the parties as held by the Hon'ble Apex Court in the case of [Biraji Alias Brijraji and another vs. Surya Pratap and others](#) [(2020) 10 SCC 729]
- * Above decision of 2020 (1) SCC 729 is also referred by Hon'ble Gujarat High Court in Hanspur Road Co.Op. Housing vs Vithal Mandir Trust on 12 January, 2023 Bench: Ashutosh Shastri C/FA/3517/2000
- * In AIR 2011 Supreme Court 1127 ([Kalyan Singh Chouhan V. C.P. Joshi](#)) it was held that "The court cannot travel beyond the pleadings and the issue cannot be framed unless there are pleadings to raise the controversy on a particular fact or law. It is, therefore, not permissible for the court to allow the party to lead evidence which is not in the line of the pleadings. Even if the evidence is led that is just to be ignored as the same cannot be taken into consideration. "
- * In a judgment reported at (2018) 11 Supreme Court Cases 652 (Shivaji Balaram Haibatti Vs. Avinash Muruthi Pawar). It was laid down in paragraph 26 that "It is a settled principle of law that the parties to the suit cannot travel beyond the pleadings so also the Court cannot record any finding on the issues which are not part of pleadings. In other words, the Court has to

record the findings only on the issues which are part of the pleadings on which parties are contesting the case. Any finding recorded on an issue de hors the pleadings is without jurisdiction."

- * Supreme Court in [Shyam Narayan Prasad vs. Krishna Prasad & Ors.](#), (2018) 7 SCC 646, wherein the Supreme Court has held that " Pleadings are meant to give to each side, intimation of the case of the other, so that, it may be met to enable courts to determine what is really at issue between the parties. No relief can be granted to a party without the pleadings."
- * The decision in Rajgopal (dead) by [LRs v. Kishan Gopal and another](#) 2003 Volume 10 Supreme Court Cases page 653 also supports the contention that the courts are precluded from taking cognizance of evidence in the absence of specific pleading in the plaint or written statement.
- * [In Gajanan Krishnaji Bapat & Anr. v. Dattaji Raghobaji Meghe & Ors.](#), AIR 1995 SC 2284; this Court held that the court cannot consider any fact which is beyond the pleadings of the parties. The parties have to take proper pleadings and establish by adducing evidence that by a particular irregularity/illegality the result of the election has been materially affected.

- * It is settled legal proposition that "as a rule relief not founded on the pleadings should not be granted." Therefore, a decision of a case cannot be based on grounds outside the pleadings of the parties. (Vide : Sri Mahant Govind Rao v. Sita Ram Kesho, (1898) 25 Ind. App. 195; [M/s. Trojan & Co. v. RM. N.N. Nagappa Chettiar](#), AIR 1953 SC 235; [Raruha Singh v. Achal Singh & Ors.](#); AIR 1961 SC 1097; [Om Prakash Gupta v. Ranbir B. Goyal](#), AIR 2002 SC 665; [Ishwar Dutt v. Land Acquisition Collector & Anr.](#), AIR 2005 SC 3165; and [State of Maharashtra v. Hindustan Construction Company Ltd.](#), (2010) 4 SCC 518.)
- * Supreme Court in [Bachhaj Nahar v. Nilima Mandal & Ors.](#) , AIR 2009 SC 1103 (2008) 17 SCC 491, held as under: "The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration.
- * In [Kashi Nath \(Dead\) through L.Rs. v. Jaganath](#), (2003) 8 SCC 740, this Court held that where the evidence is

not in line with the pleadings and is at variance with it, the said evidence cannot be looked into or relied upon. While deciding the said case, Supreme Court placed a very heavy reliance on the judgment of the Privy Council in [Siddik Mohd. Shah v. Saran](#), AIR 1930 PC 57.

- * Honourable Apex Court in (i) ([Mohanlal vs. Anantibai and others](#)) reported in AIR 1971 SC 2177 and (ii) (Ram Sarup Gupta (dead) by [Lrs vs. Bishun Narain Inter College and others](#)) reported in AIR 1987 SC 1242 which were relied on by the learned counsel for the defendants/respondents wherein it was held that in the absence of pleading, evidence tendered to any extent by a litigant will be of no use and such evidence cannot be accepted. A party to a litigation cannot be permitted to tender evidence beyond the scope of the pleading. Thus, a party to the litigation must clearly plead his case supported by relevant material facts without which, the other party will not be in a position to know the case which he or she wants to meet.
- * Supreme Court of India in case of Hasmat Rai & Anr vs Raghunath Prasad on 28 April, 1981 citations: 1981 AIR 1711, 1981 SCR (3) 605 held that "Without elaborating we must notice a well established proposition that any amount of proof offered without

pleadings is generally of no relevance. "

- * Supreme Court of India in case of Sri Uttam Chand (D) Th Lrs . vs Nathu Ram (D) Thr. Lrs. Decided on 15 January, 2020 held that “There can be no proof sans pleadings and pleadings without evidence will not establish a case in law.”
- * In [National Textile Corporation Limited vs. Naresh Kumar Badrikumar Jagad and Ors.](#), (2011) 12 SCC 695, the Supreme Court held as hereunder: "12. Pleadings and particulars are necessary to enable the court to decide the rights of the parties in the trial. Therefore, the pleadings are more of help to the court in narrowing the controversy involved and to inform the parties concerned to the question in issue, so that the parties may adduce appropriate evidence on the said issue. It is a settled legal proposition that "as a rule relief not founded on the pleadings should not be granted". A decision of a case cannot be based on grounds outside the pleadings of the parties. The pleadings and issues are to ascertain the real dispute between the parties to narrow the area of conflict and to see just where the two sides differ. ([Vide Trojan & Co. v. Nagappa Chettiar](#) [AIR 1953 SC 235] , [State of Maharashtra v. Hindustan Construction Co. Ltd.](#) [(2010) 4 SCC 518 : (2010) 2 SCC (Civ) 207 : AIR 2010 SC 1299] and [Kalyan Singh](#)

[Chouhan v. C.P. Joshi](#) [(2011) 11 SCC 786 : (2011) 4 SCC (Civ) 656 : AIR 2011 SC 1127] .)

* [In Kashi Nath v. Jaganath](#) [(2003) 8 SCC 740] (SCC p. 745, para 17) this Court held that where the evidence is not in line with the pleadings and is at variance with it, the said evidence cannot be looked into or relied upon. Same remains the object for framing the issues under Order 14 CPC and the court should not decide a suit on a matter/point on which no issue has been framed. ([Vide Biswanath Agarwalla v. Sabitri Bera](#) [(2009) 15 SCC 693 : (2009) 5 SCC (Civ) 695] and Kalyan Singh Chouhan [(2011) 11 SCC 786 : (2011) 4 SCC (Civ) 656 : AIR 2011 SC 1127] .)

* [In Syed and Co. v. State of J&K](#) [1995 Supp (4) SCC 422] this Court held as under: (SCC pp. 423-24, paras 7-8) "7. ... Without specific pleadings in that regard, evidence could not be led in since it is a settled principle of law that no amount of evidence can be looked unless there is a pleading.

* [In Chinta Lingam v. Govt. of India](#) [(1970) 3 SCC 768 : AIR 1971 SC 474] this Court held that unless factual foundation has been laid in the pleadings no argument is permissible to be raised on that particular point.

* [In J. Jermons v. Aliammal](#) [(1999) 7 SCC 382] while

dealing with a similar issue, this Court held as under:
(SCC p. 398, paras 31-32) "31. ... there is a fundamental difference between a case of raising additional ground based on the pleadings and the material available on record and a case of taking a new plea not borne out by the pleadings. In the former case no amendment of pleadings is required whereas in the latter it is necessary to amend the pleadings. ...

(12) In case on hand, plaintiffs have filed the proof of complaint as Ex.16 and Panchnama of spot at Ex.17 and Inquest Panchnama of Ex.18 as the proof of death of electrocution. The same evidence is under Ex.34 and Ex.35. The death of victim due to electrocution is proved through it and therefore, the main contention of defendant side is not sustainable for not having proof of death due to electrocution.

(13) Now the question is of the quantum of the compensation. Even this court re-calculate the compensation, it might be higher and it is legal that all parameters of the compensation of motor accident claims are applicable in the case of determination of compensation for death due to electrocution, therefore, the order of learned trial court does affected with infirmity or illegality and it does not require any interference from this court. Therefore decision on point No.1 to 3 are given in negative and following final order is required to pass.

Final Order

1. The appeal filed by appellants i.e. original defendant is rejected with costs.

2. The judgment and decree passed by the learned Principal Civil Judge Dhanera in RCS NO. 15/2017 on Dtd.24/8/2022 is confirmed as it is.
3. Parties to bear their own costs.
4. Memo of costs/Decree to be drawn accordingly.
5. Registry of this court is hereby directed to send the certified copy of this order with original record and proceedings to the learned trial court for information and action if any.

Singed & Pronounce in open Court Today 10st August 2026

Dt.10/8/2026

Place - Deesa

(Shilpa Mansukhlal Kanabar)
5th Additional District Judge
Banaskantha at Deesa
Code: GJ00814

Proceedings

10/8/2026	This matter is listed before me for judgment
10	Judgment declared today
	Disposed of accordingly

(Shilpa Mansukhlal Kanabar)
5th Additional District Judge
Banaskantha at Deesa
Code: GJ00814