

**IN THE COURT OF CIVIL JUDGE (SENIOR
DIVISION), BHANJANAGAR, GANJAM**

Present:

Sri Debasish Bisoi, LL.M
Civil Judge (Senior Division),
Bhanjanagar, District: Ganjam.
JO-CODE OD-00537

Dated the 11th day of August, 2026

Civil Suit No.10 of 2022

1. **Smt. Sangita Swain**, aged about 34 years, W/o late Tuna Swain of village/PO- Gamundi, PS- Bhanjanagar, Dist. Ganjam, daily labour.
2. **Suman Swain**, aged about 15 years, S/o late Tuna Swain of village/PO- Gamundi, PS- Bhanjanagar, Dist. Ganjam, (study by profession).
3. **Subhasree Swain**, aged about 11 years, D/o late Tuna Swain of village/PO- Gamundi, PS- Bhanjanagar, Dist. Ganjam, study by profession.
(Both being minor son and daughter are represented by their mother guardian (plaintiff No.1))

...Plaintiffs

Vrs.

1. **The Sub-Divisional Officer**, TPSODL, Bhanjanagar, Electrical Sub-Division, At/PO/PS- Bhanjanagar, Dist. Ganjam.

2. **The Executive Engineer**, TPSODL, Electrical Division, At/PO/PS- Bhanjanagar, Dist. Ganjam.
3. **The Collector**, Ganjam, Chatrapur, At/PO/PS- Chatrapur, Dist. Ganjam.
4. **Smt. Basanti Pradhan**, aged about 47 years, W/o late Rama Chandra Pradhan, resident of 3rd line Nilandri Vihar, Bagdevi Road, PS- Bhanjanagar, Dist. Ganjam.

...Defendants

Appearance:

Counsel for the Plaintiffs: Sri Bansidhar Pradhan

& Associates, Advocate, Bhanjanagar

Counsel for Defendants

No.1 & 2: Sri S.K. Tiady & Associates,
Advocate, Bhanjanagar

Counsel for Defendant No.3: Learned AGP, Bhanjanagar

Counsel for Defendant No.4: Sri Sudeep Kumar Nayak
& Associates, Advocate, Bhanjanagar

Date of Argument : 10.08.2026

Date of Judgment : 11.08.2026

J U D G M E N T

This is a suit for grant of compensation of Rs.20,00,000/- (Rupees Twenty Lakhs) only with interest @ 9% per annum to the plaintiffs for unnatural death of Tuna Swain due to electrocution with other reliefs.

2. The brief facts of the case of the plaintiffs:

Plaintiff no.1 is the legally married wife of late Tuna Swain and plaintiffs no.2 and 3 are their minor children. It is averred that said Tuna Swain was working as a daily labourer and being the sole earning member of his family, the entire family was completely dependent on his income. On dated 10.12.2020, Tuna Swain was engaged in the construction work of the house of defendant No.4 situated at 3rd lane of Niladri Vihar, Baghdevi road, Bhanjanagar. On the said date at about 10 to 11 AM, Tuna Swain went to the upstairs of the house to bring G.I. wire and while shifting the same, he came in contact with 11 KV line overhead which was passing through the house at a height of 8 to 9 ft. As a result, Tuna Swain sustained severe burn injuries and he was immediately shifted to SDH, Bhanjanagar for his treatment. The attending doctor advised and referred him to MKCG MCH for further treatment. Unfortunately, the doctor Tusar Kanta Sahu at casualty of MKCG MCH received Tuna Swain at 4 PM with a note "brought dead". On the report of the said doctor, Baidyanathpur P.S. registered U.D. case No. 575 dtd. 11.12.2020 and during course of investigation, inquest and post-mortem examination were conducted on the dead body of the deceased. It is alleged that the untimely death of Tuna Swain was caused due to gross negligence of defendant

No. 1 & 2. It is averred that the inhabitant of the area where the occurrence took place complained the electricity department several times to shift the 11 KV line overhead wire but no step was taken from the side of the department. Further, number of electrical accidents have already taken place in the said area in the past causing injuries and deaths. According to the plaintiffs, defendant No.1 to 3 did not care to shift the 11 KV line from the township area inspite of complaints leaving the inhabitants of the area in danger. Further, the defendant No.1 to 3 also did not follow the standard safety protocols to avoid any electrical accidents. As such, they are responsible for the death of Tuna Swain who was the sole earning member of his family. Lastly, it is averred that in case defendant No.1 to 3 are held not responsible for the death of the deceased then defendant No.4 be directed to pay the compensation amount as above. Against this backdrop, the plaintiffs have filed the present suit seeking for aforementioned reliefs.

The cause of action to file the suit arose on 10.12.2020 when Tuna Swain died due to electrocution for the fault of defendants and on 11.12.2020 when a U.D. case was registered at Baidynathpur P.S.

3. After issuance of summons, the defendant No. 1 & 2 entered their appearance in the suit and filed their joint written statement challenging maintainability

of the suit and contended that there is no cause of action to file the same. It is also contended that they have no knowledge regarding the relationship of the plaintiff with the deceased Tuna Swain for which the plaintiff needs to prove the same by adducing cogent evidence. Although the defendants admitted that said Tuna Swain being a daily labourer was engaged in the construction work of the house of defendant No.4 but they have no knowledge regarding his income. It is also admitted that Tuna Swain died due to electrocution while working as such. According to the defendants, during course of enquiry, it is ascertained that on 10.12.2020 at 11.55 AM, one Tuna Swain got electrocuted by coming in contact with 11 KV line passing across the house of defendant No.4. As per the version of locals, on the said date, Tuna Swain was working in the roof top with iron rods in his hand and GI wires on his neck and while working as such, he came in contact with 33 KV conductor and sustained burn injuries on several parts of his body. It is strongly contended that the accident took place due to unauthorized construction undertaken by the house owner under the existing 33 KV Tilisingi feeder and due to carelessness of the deceased. It is also contended that the house owner was noticed not to undertake the construction work and immediately stop the same vide Letter NO. 159(8) dtd. 30.05.2020 of SDO (Electrical), Bhanjanagar. Further, defendant No.2 soon after the occurrence vide his office Letter No. 1952 (8)

dtd. 11.12.2020 intimated the facts to Deputy Electrical Inspector, Berhampur who is statutorily empowered to enquire into electrical accidental matters. According to the defendants, defendant No.4 is only responsible for death of late Tuna Swain and there was absolutely no fault on the part of the present defendants. Lastly, it is contended that the deceased died due to his his own negligence and the amount of compensation as claimed by the plaintiff is baseless and excessive. Hence, they prayed this court to dismiss the suit with cost.

3.1. Defendant No.3 & 4 although appeared in the suit but failed to file any W.S. within the stipulated period for which they were precluded to do so.

4. Keeping in view the rival pleadings of the parties, the following issues are framed for effective adjudication of the suit.

Issues:

- I) Whether the suit is maintainable or not?
- II) Whether plaintiffs have sufficient cause of action to bring the suit?
- III) Whether the plaintiffs are entitled to get compensation for the death of Tuna Swain due to electrocution?
- IV) Whether plaintiffs are entitled to get the reliefs as claimed by them?
- V) To what other relief, the plaintiffs are entitled?

5. In order to prove their case, plaintiffs have examined plaintiff no.1 as PW1 and relied on number of documents vide Ext.1 to Ext.6 on their behalf.

On the other hand, defendant No. 1 & 2 have examined one Hrudaya Ballabha Pradhan who is the Executive Engineer, Berhampur Electrical Division-III as DW1 and have relied on one document vide Ext.A to negate the case of the plaintiffs.

FINDINGS

Issues No. III and IV:-

6. On verification of the pleadings of the parties vis-a-vis the documents adduced on their behalf, it is seen that the plaintiffs have filed this suit seeking for compensation from the defendants for the unnatural death of Tuna Swain (hereinafter referred to as the deceased) due to electrocution. It is an admitted fact from the pleadings of both sides that Tuna Swain died due to electrocution. Moreover, it is also opined in the postmortem report of the deceased died due to high electrocution and the complications thereof. There is no dispute regarding the spot of occurrence as well. But the defendant No. 1 & 2 have stoutly denied that there was any negligence on their part in any manner who strongly contended that the deceased died due to his own negligence in terms of the unauthorized construction

carried on by defendant No.4. They have relied on a document vide Ext.A and deposed that defendant No.4 was warned beforehand not to carry on construction work. On scrutiny of Ext.A., it reveals that a letter appears to have been issued to defendant No.4 to stop construction work. But there is no postal receipt or any other proof to establish that such a notice was actually served on defendant No.4. Mere filing of a notice cannot automatically prove that the defendant No. 1 & 2 actually warned defendant No.4 to stop any construction work. The defendant No. 1 & 2 have specifically pleaded in their W.S. that they conducted an enquiry and the report thereof was submitted by defendant no.2 to the Deputy Electrical Inspector, Ganjam, Berhampur on dtd. 11.12.2020. But surprisingly, the defendant No. 1 & 2 have not filed any such report during trial in order to substantiate their pleading. More significantly, D.W.1 while on dock categorically deposed that around 3 nos. of electrical accident cases were reported from Niladri Vihar locality during his incumbency. He also deposed that he also suggested his higher authorities to shift the 33 KV line from the said locality to some other place. From the said statements, it is clear that there were numbers of electrical accidents at Niladri Vihar location where the present accident took place and the electricity department did not take active step to avoid such incidents in future. As such, it seems that the defendant No. 1 & 2 in order

escape from their liability are very cunningly trying to shift the same on defendant No.4. Resultantly, there is nothing on record to believe for a moment that the stand taken by the defendant No. 1 & 2 is true and that there was any fault on the part of the deceased or defendant No.4 on the fateful day. The Electricity Act and other rules and regulations framed thereunder cast an onerous duty on the defendants No. 1 & 2 company to maintain and supply electricity in a proper condition. Undoubtedly, live electric wires can create hazards to the life of the human beings as well as other cattle and domestic animals. From the evidence available on record, it reveals that on 10.12.2020, the deceased Tuna Swain while engaged in the construction work of the house of defendant No.4 accidentally came in contact with a live electric wire and straightaway got electrocuted. As such, it is apparent that the defendant No. 1 & 2 did not take adequate care to cover the live electric wire in a residential area in order to avoid any electrical accident at the spot. In absence of any evidence to the contrary, the maxim *res ipsa loquitur* squarely applies to the present case which says an act which speaks for itself. Further, the defendant No. 1 & 2 have also not filed any enquiry report of the Deputy Electrical Inspector, Berhampur who is the statutory authority to conduct enquiry in electrical accident cases. As such, there is no document on record to show that there was no fault on the part of the

defendant No. 1 & 2 in the said occurrence. On the contrary, the pleading of the plaintiffs coupled with the documents exhibited by them and applying the principle of preponderance of probability, it reveals that the deceased came in contact with a live electric wire which was left uncovered. As such, a genuine question arises as to whether the Electricity Department had taken all precautionary measures to avoid any untoward electrical accident on the spot. Being the license holder to supply electricity, it is the first and foremost duty of defendant No. 1 & 2 and its officials to take adequate and extraordinary precautionary steps to ensure that life and safety of any living being is not at stake due to supply of energy through wires. Law has fixed absolute liability on defendants (1 & 2)-corporation being the authorized agency to supply the highly hazardous substance i.e. electricity. In view of the above discussion and evidence on record, it is found that defendant No. 1 & 2 had not taken adequate safety measures and as such, they cannot escape from the liability by taking some plea or other. More significantly, there is nothing on record to believe that the deceased Tuna Swain was negligent in any manner at the spot for his death and the deceased was also not involved in any unlawful activity on the date of occurrence.

6.1. Moving on to the relationship of the plaintiffs with the deceased, it reveals from Ext.6 i.e. the legal heir certificate of late Tuna Swain that plaintiff no.1 is the wife of the deceased and plaintiffs no.2 and 3 are the minor children of the deceased. Further, the said document has also not been challenged by the defendants in any manner. Hence, it is found from the evidence on record that after death of deceased Tuna Swain, his wife-plaintiff no.1 and minor children plaintiff no.2 & 3 are the surviving legal heirs-cum-successors in interest.

6.2. It is proved from the facts and evidence on record that death of the deceased was caused due to electrocution by coming in contact with live electric wire, without any negligence on his part, for which material loss has been caused to the plaintiffs and they should be compensated adequately by defendants (1 & 2)' corporation as it is the licensee to supply electricity. It is also found that the accident occurred due to negligence of defendants (1 & 2)' company in maintaining proper safety measures to avoid any accident although it deals with extremely hazardous substance like electricity. Hence, defendants No. 1 & 2 are absolutely liable to pay compensation to the plaintiffs.

HOW MUCH AMOUNT SHOULD BE AWARDED AS JUST AND PROPER COMPENSATION IN THIS CASE?

7. Plaintiffs have filed this suit seeking compensation for the loss caused to them due to death of the deceased by electrocution who is the husband of plaintiff No.1 and father of plaintiffs No.2 & 3. No monetary relief can substitute the loss caused to the bereaved family members due to death of the victim. However, the purpose of granting compensation is to meet a reasonable degree of proximity to arithmetical precession, on the basis of the materials brought on record in each case. The amount of compensation should be just and proper, keeping in view different aspects such as the age of the victim at the time of death, his income, number of dependents, future prospect of income, loss of love and affection etc.

The *Hon'ble Supreme Court of India in Sarla Verma (Smt) and Others vs Delhi Transport Corporation and another report in (2009) 6 Supreme Court Cases 121* have narrated exhaustively the process by which quantum of compensation for the victims of motor vehicular accidents and their family members can be calculated. The procedure elaborated in this judgment has been widely applied by the Hon'ble Apex Court as well as different Courts of the country. The said principles have also been applied to the cases where death or injuries had been caused due to electrocution, because

in both the type of cases, the level sufferings of victims as well as their family members are equal.

In the case of **National Insurance Company Limited vs Pranay Sethi and Ors. reported in (2018) 69 OCR (SC) – 1, the Hon'ble Apex Court** have provided exhaustive guidelines to calculate compensation. The relevant portion of Para.61 of the judgment reflects that:-

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“(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, in addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) In case of the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

*(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the Courts shall be guided by paragraphs 30 to 32 of **Sarla Verma** which we have reproduced hereinbefore.*

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years”.

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In **Magma General Insurance Co. Ltd. -v- Nanu Ram Alias Chuhru Ram & Ors (2018) 72 OCR (SC) 497 the Hon'ble Supreme Court** have opined regarding granting of consortium to the spouse, parents and children of deceased victims, the said paragraph is reproduced as follows:

“8.7 A Constitution Bench of this Court in *Pranay Sethi (supra)* dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.

In legal parlance, “consortium” is a compendious term which encompasses ‘spousal consortium’, ‘parental consortium’, and ‘filial consortium’.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

Spousal consortium is generally defined as rights pertaining to the relationship of a husband wife which allows compensation to the surviving spouse for loss of “company, society,

cooperation, affection, and aid of the other in every conjugal relation.

Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.” Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world over have recognized that the value of a child’s consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

A few High Courts have awarded compensation on this count⁵. However, there was no clarity with ⁵ Rajasthan High Court in Jagmala Ram @ Jagmal Singh & Ors. v. Sohi Ram & Ors 2017 (4) RLW 3368 (Raj);

Uttarakhand High Court in Smt. Rita Rana & Anr. v. Pradeep Kumar &⁶ Ors. Respect to the principles on which compensation could be awarded on loss of Filial Consortium.

The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under ‘Loss of Consortium’ as laid down in Pranay Sethi (supra).”

7.1. In the present case, plaintiffs have claimed that deceased was the sole earning member of the family being engaged as a daily labourer. But they have not produced any documentary evidence with regard to income of the deceased. Under such circumstances, the minimum wages fixed for an unskilled labour should be taken as the income of the deceased in a presumptive way in order to calculate the quantum of compensation. As per Government of Odisha Notification, the minimum wage of an unskilled labour on the date of accident i.e. on 10.12.2020 was Rs.308 per day. The compensation amount that the plaintiffs are entitled, shall be calculated by presuming that Rs.308 was the income of the deceased on the date of accident. As per the principles and guidelines formulated by the ***Hon'ble Supreme Court of India in Sarla Verma, Pranaya Sethi and Magma General Insurance Co. Ltd. cases***, the multiplier to be applied in this case should be fifteen (15) because the age of the deceased on the date of accident as evident from Ext.4 was around 40 years. In the light of above discussion, plaintiffs are entitled to the following amounts.

Sl. No.	Head	Compensation Entitled
1	Income	Rs.308 per day (Rs.9,240/- per month)
2	Future prospect	Rs.2,310/-

	(25% of income)	(As the deceased was about 40 years of age and was on a fixed salary on the date of accident)
3	Deduction towards personal expenditure	Rs.3,850/- (1/3rd of income and future prospect-deceased was having three dependents)
4	Total Income (Sl.1+Sl.2-Sl.3)	Rs.11550 - Rs.3850 = Rs.7700/-
5	Multiplier	15
6	Loss of future income	Rs.13,86,000/- (Rs.7700 x 12 x 15)
8	Funeral expense	Rs.15,000/-
9	Loss of estate	Rs.15,000/-
10	Loss of consortium	Rs.40,000/-
11	Grand total	Rs.14,56,000/-

As per the above the calculation, plaintiffs are entitled to get compensation amount of Rs.14,56,000/- from the defendants no.1 & 2 corporation. So, the plaintiffs should be paid the above calculated compensation amount for the death of the deceased Tuna Swain due to electrocution. Further, they are entitled to get interest @ 6% p.a. from the date of institution of suit till it is actually paid. Hence, these issues are answered in favour of the plaintiffs and answered accordingly.

Issues No. I, II and V:-

8. None of the parties have pressed the issues during argument. However, in view of my findings while answering the vital issues above, I hold the suit is maintainable and plaintiffs have a valid cause of action to file the suit. But as far as the Issue no. V is concerned, plaintiffs are not entitled to any other relief.

Hence, it is ordered.

-: O R D E R :-

The suit be and the same is decreed on contest against the defendants and under the circumstances without any cost. The defendants no.1 & 2 corporation are hereby directed to pay compensation to the tune of Rs.14,56,000 /- (Rupees Fourteen Lakhs Fifty-six Thousand) only to the plaintiffs with the accrued interest therein. The compensation shall carry interest @6% per annum from the date of filing of the suit till it is actually paid. The compensation shall be paid within three months from the date of order, failing which plaintiffs can recover same through process of law.

The pleader's fee at contested scale.

Sd/- Sri D. Bisoi

**Civil Judge (Senior Division)
Bhanjanagar**

This judgment is being typed by me by using computer, is corrected, signed and pronounced by me in the open court today i.e. on this the 11th day of August, 2026 under my seal and signature.

Sd/- Sri D. Bisoi

**Civil Judge (Senior Division)
Bhanjanagar**

Witnesses Examined for the Plaintiffs:

P.W.1 Smt. Sangita Swain

Witnesses Examined for the Defendants No.1 & 2:

D.W.1 Hrudaya Ballabha Pradhan

Witnesses Examined for the Defendants No.3 & 4:

None

List of Exhibits marked for the Plaintiffs:

Ext.1: Certified copy of FIR in UD Case
no.575/2020

Ext.2: Certified copy of final report in UD
Case no.575/2020

Ext.3: Certified copy of Inquest report of
deceased Tuna Swain

Ext.4: Certified copy of PM report of
deceased Tuna Swain

- Ext.5: Office copy of 80 CPC notice dated 26.10.2021 issued to defendants no.1 to 3
- Ext.6: Legal heir certificate of deceased Tuna Swain

List of Exhibits marked for Defendants No.1 & 2:

- Ext.A: Letter No.159(8) dated 30.05.2020 of the Office of Sub-Divisional Office (Electrical), Bhanjanagar issued to defendant no.4

List of Exhibits marked for Defendants No.3 & 4:

NIL

Sd/- Sri D. Bisoi

**Civil Judge (Senior Division),
Bhanjanagar**