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**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
at PORBANDAR.**

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REGULAR CIVIL APPEAL NO.21 OF 2023

Exh.13

APPELLANT (ORIGINAL DEFENDANT)

PASCHIM GUJARAT VIJ CO. LTD.,

Corporate Office at Rajkot,
Through:Dy. Engineer,
Ranakandorna Sub-Division Office,
Ranakandorna, Taluka Ranavav,
District Porbandar.

VERSUS

RESPONDENT (ORIGINAL PLAINTIFF)

Lilabhai Virambhai Kadachha,
Male, Age: 45, Occu. Farming,
Address:Field Area,
Village Ranavadvala,
Taluka Ranavav,
District Porbandar.

Appearance:

Mr. H. K. Gorania, Ld. Advocate for the appellant.

Mr. B. V. Joshi, Ld. Advocate for the respondent.

***Appeal against judgment & decree passed in Regular Civil Suit
No.1/2018***

Under Section 96, Order XLI of the Code of Civil Procedure

-// J U D G M E N T \-

[1] This appeal is directed against the judgment and decree dated 20.12.2022 passed by the learned Principal Civil Judge, Ranavav, Dist. Porbandarm (Hereinafter referred to as Ld. Trial Court) in Regular Civil Suit No. 1 of 2018, whereby the suit filed by the respondent herein was partly decreed and compensation of Rs. 1,50,000/- with simple interest at the rate of 6% per annum was awarded on account of death of a buffalo due to fall of an electric pole belonging to the appellant – Paschim Gujarat Vij Company Ltd. (PGVCL).

[1.1] Being aggrieved and dissatisfied by the said judgment & decree, present appeal has been filed. Pursuant to filling of this appeal, notice was issued and duly served to the respondent and the respondent filed appearance through learned advocate Mr. B. V. Joshi.

Arguments of appellant:

[2] The prime contentions of learned advocate for the appellant is as under:-

1. The learned Trial Court has failed to appreciate the evidence in its proper perspective.
2. The judgment & decree passed by learned Trial Court is illegal, unjust and suffers from grave irregularity and same is required to be set aside.
3. The incident has not occurred due to negligence on the part of appellant and the incident was result of

negligence on the part of respondent as the respondent failed to monitor his buffalo and that the incident was result of buffalo having messed with the pole for scratching its body.

4. The appellant is not liable to pay any compensation to the respondent as the pole was affixed with requisite care and caution adhering to all norms but on account of soil erosion during monsoon the pole lost its stability.
5. The learned Trial Court has granted Rs.75,000/- against cost of buffalo owned by the respondent and Rs.75,000/- against compensation for loss of income from milk on account of death of buffalo, however, such compensation can be granted only against death of a human.
6. The compensation amount granted by the learned Trial Court is excessive and exaggerated.

[2.1] In light of the above submissions, it is prayed that the present appeal may kindly be allowed and impugned judgment and decree passed by the Trial Court may kindly be set aside.

Arguments of respondent:

[3] Learned advocate for the respondent has vehemently argued and submitted that the impugned judgment and decree are passed after considering all the relevant material adduced by either side and there is no lacuna or irregularity in the impugned judgment and decree as the learned Trial Court has appreciated facts and law in proper perspective. It is urged that the amount of compensation awarded by the Ld. Trial Court is just and

reasonable and that no interference is warranted by this Court in appeal.

[3.1] It is further argued that the appellant failed to establish any negligence on the part of respondent and therefore the issue of liability as held by the Ld. Trial Court is required to be affirmed. Further, it is argued that the quantum of compensation awarded by the Ld. Trial Court is based on cogent reasoning and the loss of income on account of demise of buffalo has also been rightly considered by the Ld. Trial Court. It is submitted that the learned Trial Court has rightly decreed the suit of the plaintiff and present appeal is devoid of merits and hence the same may kindly be dismissed with costs.

Points for Determination

[4] In light of the submissions of either side and perusal of material on record before the Ld. Trial Court, following points of determination arise for the just adjudication of this appeal:

- 1. Whether the Trial Court was justified in holding the appellants/defendants liable for negligence resulting in the death of the plaintiff's buffalo and holding the appellants/defendants liable to pay compensation to the respondent/plaintiff?*
- 2. Whether the Ld. Trial Court was justified in awarding compensation towards loss of income on account of death of buffalo?*
- 3. Whether the compensation awarded by the Ld. Trial Court is excessive and requires interference?*
- 4. What order?*

[4.1] The findings in respect of above points of determination are as under:

1. *In the affirmative.*
2. *In the negative.*
3. *Partly in the affirmative.*
4. *The compensation awarded by the Ld. Trial Court is modified and reduced to Rs. 100,000/-*

Reasons:

[5] It is well settled law that a first appeal is a valuable right of the parties, and the First Appellate Court is the final Court on facts. In **Santosh Hazari v. Purushottam Tiwari**, (2001) 3 SCC 179, the Hon'ble Supreme Court has held that, the appellate court has jurisdiction to reverse or affirm the findings of the trial court, and First appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. It was also observed that the judgment of the appellate court must, therefore, reflect its conscious application of mind and record findings supported by reasons, on all the issues arising along with the contentions put forth, and pressed by the parties for decision of the appellate court, and that while reversing a finding of fact the appellate court must come into close quarters with the reasoning assigned by the trial court and then assign its own reasons for arriving at a different finding. Therefore, this Court has independently examined the oral and documentary evidence on record before arriving at its conclusions.

[5.1] Before proceeding to appreciate the material on record before the Ld. Trial Court, it would be apt to refer the evidence produced by the either side before the Ld. Trial Court.

[5.2] The respondent in support of his claim produced the below listed oral and documentary evidences before the learned Trial Court.

Oral Evidence produced by the respondent:-

Sr. No.	Descriptions	Exh.
1	Affidavit of examination-in-chief of plaintiff Lilabhai Virambhai Kadachha	28

Documentary Evidence produced by the respondent vide

Documentary-List Exh.04:-

Sr. No.	Descriptions	Exh.
1	Attested Copy of Station Diary Entry No.1 of Ranavav Police Station	30
2	Attested Copy of panchanama of place of incident in terms of Station Diary No.1 of Ranavav Police Station	31
3	Attested Copy of Postmortem Report	32
4	Panch Rojkam of Ranakandorna Gram Panchayat	33

Documentary Evidence produced by the respondent vide

Documentary-List Exh.23:-

Sr. No.	Descriptions	Exh.
1	Computerized passbook of membership of Milk Producers Co-operative Society	34
2	Original photographs (7 nos.)	35 to 41

[5.3] The list of oral as well as documentary evidences produced by the appellant herein, before the learned Trial Court is as under:-

Oral Evidence produced by the appellant:-

Sr. No.	Descriptions	Exh.
1	Affidavit of examination-in-chief of witness Pravinbhai Ratilal Dulera on behalf of the defendant No.3	47

Documentary Evidence produced by the appellant:-

Sr. No.	Descriptions	Exh.
1	Original notice and report with regard to the electricity accident	49
2	Original rojkam of place of incident carried out by the defendant company	50
3	Original statement of eye-witness Gigabhai Virambhai Kadachha recorded by the defendant company	51

[5.4] Keeping in view the pleading of either side, the Ld. Trial Court framed issues at Exhibit-15. The issues framed by the learned Trial Court as well as the findings returned by the learned Trial Court are as under:-

1. *Whether the plaintiff proves that electric pole of PGVCL is situated in the land property owned by him?*
Held in the Affirmative.
2. *Whether the plaintiff proves that the electric pole fell due to negligence of the defendants and thereby the buffalo died ?*
Held in the Affirmative.
3. *Whether the plaintiff proves that the buffalo was owned by him ?*
Held in the Affirmative.
4. *Whether the plaintiff proves that he suffered financial loss of Rs.2,50,000/- due to break down of electric pole and death of buffalo ?*
Held partly in the Affirmative.
5. *Whether the suit of plaintiff is barred by the limitation ?*
Held in the Negative.
6. *Whether the suit of plaintiff is barred by any other law ?*
Held in the Negative.

7. *Whether the plaintiff is entitled to get all the reliefs as prayed for ?*

Held partly in the Affirmative.

8. *What order ?*

As per the final order.

9. *What decree ?*

Decree as per the final order.

[5.5] It emerges from the record that, the incident forming subject matter of the suit underlying this appeal occurred on 30.08.2017 when an electric pole fell on the buffalo of the plaintiff. Documentary evidence such as panchnama, post-mortem report, and police station diary entry corroborate the occurrence. Perusal of the written statement filed by the defendants at Exhibit-13 reveal that the defendants deny the occurrence of incident which resulted in death of the buffalo of the plaintiff and it is pleaded that as per the departmental inquiry about the said incident of death of buffalo of plaintiff, it was disclosed that it was monsoon season at the time of incident and on account of soil erosion the pole fell on the buffalo while the buffalo was scratching its body against the pole which resulted in the injuries on vital part of the buffalo resulting in its death. It is pleaded by the defendants that the defendants were not negligent in happening of the incident.

[5.6] The plaintiff has deposed at Exhibit-28 reiterating the facts pleaded in the suit plaint. In his cross examination by the defendant side it is admitted that it was monsoon season at the time of incident, however it is stated by the plaintiff that he had witnessed the incident. It is also admitted that the said electric pole was erected on a heap of soil. This suggestion is also indicative of improper installation and lack of proper foundation.

[5.7] The defendant side examined witness Pravin Ratilal Dulera- the deputy engineer, Keshor rural department of PGVCL at Exhibit-47 and in his cross examination the said witness admits that as per the document produced at Exhibit-49 it was disclosed that the buffalo died as a result of felling of electric pole and it is also admitted that the plaintiff was not negligent in the happening of incident. He also admits that the PGVCL is duty bound to maintain the electric pole periodically. Though he denies to the suggestion that maintainance was not carried out as per the norms, there is no material on record to indicate that periodic inspection of electric line & its poles was carried out as a part of maintenance. Rather it is admitted that no such register or entry indicating that regular maintenance and inspection of the electric line and poles were carried out.

Liability of appellant:

[6] The core issue requiring determination is whether the appellant can be held liable for the death of the plaintiff's buffalo on account of the fall of the electric pole. Upon re-appreciation of the evidence, the following material aspects emerge:

[6.1] **Occurrence of Incident:** The plaintiff has consistently deposed that on 30.08.2018, at about 11:00 a.m., the electric pole situated near his agricultural field suddenly collapsed and fell upon his buffalo, causing fatal injuries. This version is corroborated by, the Police Station Diary Entry at Exhibit- 30 recorded immediately after the incident and the scene of incident panchnama prepared by Ranava Police produced at Exhibit-31. The Panchnama (Spot Inspection Report) prepared by PGVCL, which notes the fallen pole and the condition of the

site produced at Exhibit-50 also corroborates the case of respondent. The Post-mortem Report, confirms that the buffalo died due to injuries consistent with heavy impact produced at Exhibit-32. These documents lend strong contemporaneous support to the respondent's case and remain largely unshaken in cross-examination.

[6.2] Location and Ownership of Electric Pole: It is an admitted position that, the electric line and pole belonged to the appellant company. It has also surfaced on record that the pole was installed adjacent to and within the vicinity of the respondent's field. Moreover, even in the written statement, the appellant has not denied ownership or control over the said infrastructure (electric pole).

[6.3] Maintenance and Inspection: A crucial aspect pertains to whether the appellant discharged its duty of care. From the evidence, it transpires that the appellant's witness admitted during cross-examination that maintenance records are ordinarily maintained, however, no documentary proof of recent inspection or maintenance of the concerned pole was produced before the Court. Further, no logbooks, inspection registers, or preventive maintenance records were produced to show that the pole was structurally sound; or periodic inspection was carried out in accordance with safety norms. This omission assumes significance, particularly when such records are expected to be in the exclusive possession of the appellant.

[6.4] Defence of Natural Cause / External Factors: The appellant attempted to contend that, the soil conditions or monsoon-related factors may have caused the pole to fall; and/or that the incident is not due to their negligence but on account of the buffalo having scratched its body against the pole resulting

in felling of the pole. However, no expert evidence was led to substantiate these claims and no technical report or site analysis was produced to substantiate or corroborate such defense. Rather, these defense please remain a mere suggestion without being backed up any admissible evidence.

[6.5] Legal Position on Liability: Electricity supply is an inherently hazardous activity. The supplier is under a strict duty to ensure that infrastructure such as electric poles and lines are properly maintained.

[6.6] In this regard it would be apt to refer to the decision of the Hon'ble Supreme Court in the case titled **M. P. Electricity Board Vs. Shail Kumari and others**, (2002) 2 SCC 162 wherein the Hon'ble Supreme Court has held and observed in paras 7, 8, 9, 10 and 11 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 if 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 of his private property and that the electrocution was from such diverted line. It is the look out 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 cast on such person is known, in law, as "strict liability". It differs from the liability which arises on

account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.

9. The doctrine of strict liability has its origin in English Common Law when it was propounded in the celebrated case of Rylands V/s. Fletcher (1868 Law Reports (3) HL 330), Blackburn J., the author of the said rule had observed thus in [the said decision](#) : "The rule of law is that the person who, for his own purpose, brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and if he does so he is prima facie answerable for all the damage which is the natural consequence of its escape."

10. There are seven exceptions formulated by means of case law to the doctrine of strict liability. It is unnecessary to enumerate those exceptions barring one which is this. "Act of stranger i.e. if the escape was caused by the unforeseeable act of a stranger, the rule does not apply."

11. The rule of strict liability has been approved and followed in many subsequent decisions in England. A recent decision in recognition of the said doctrine is rendered by the House of Lords in Cambridge Water Co. Ltd. V/s. Eastern Counties Leather Plc. (1994 (1) All England Law Reports (HL) 53). The said principle gained approval in India, and decisions of the High Courts are a legion to that effect. A Constitution Bench of this Court in Charan Lal Sahu V/s. Union of India (1990 (1) SCC 613) and a Division Bench in Gujarat State Road Transport Corpn. V/s. Ramanbhai Prabhatbhai (1987 (3) SCC 234) had followed with approval the principle in Rylands V/s. Fletcher. By referring to the above two decisions a two Judge Bench of this Court has reiterated the same principle in Kaushnuma Begum V/s. New India Assurance Co. Ltd. (2001 (2) SCC 9)"

[6.7] It is thus clear from the ratio laid down in the above referred decision of the Hon'ble Apex Court that Electricity authorities are liable on principles akin to strict liability where injury is caused due to failure in maintaining electrical systems. The electricity authority has a duty to take all preventive measures, and failure to do so attracts liability even in absence of direct negligence. Further, having regard to the nature of activity of the appellant, the failure to maintain poles and lines amounts to actionable negligence.

[6.8] Application of Law to Facts: Applying the above principles to the present case, it emerges that the appellant had exclusive control over the electric pole and the said pole collapsed under normal circumstances without any proven external intervention. The appellant failed to produce maintenance records, which were within its special knowledge. In such circumstances, an adverse inference is liable to be drawn under general principles of evidence. The doctrine of *res ipsa loquitur* (the thing speaks for itself) is clearly attracted, inasmuch as electric poles would not ordinarily fall if properly maintained and therefore in the case at hand, the occurrence itself indicates negligence.

[6.9] Conclusion on Liability: In view of discussion on facts and law, the respondent side has adduced consistent and corroborated evidence of the incident and the appellants admits the ownership and control over the pole, hence in the absence of any proof of due maintenance and inspection, coupled with settled legal principles governing hazardous activities, this Court is of the considered opinion that the Ld. Trial Court has rightly held the appellant liable. The finding on liability is therefore affirmed as this Court finds no error in the conclusion of the Trial Court that the appellant was negligent. Hence, having regard to the over all appreciation of oral and documentary evidence on record, this Court affirms the finding returned by the Ld. Trial Court on the aspect of negligence and the Ld. Trial Court has rightly concluded that the pole fell due to lack of proper maintenance. **Accordingly, the point No. 1 is answered in the Affirmative.**

Quantum of Compensation:

[7] The respondent claimed compensation of Rs. 250,000/-, which is quantified as Rs. 100,000/- towards cost of the buffallos and Rs. 150,000/- towards loss of future income from milk. Ld. Advocate for the appellant has vehemently argued that Ld. Trial Court has erred grossly in award a sum of Rs. 75,000/- towards loss of income from milk and that since the Ld. Trial Court already awarded Rs. 75,000/- towards the cost of buffallos, it could not have awarded compensation under the head of future loss of income from milk. Perusal of the impugned judgment reveals that the Ld. Trial Court awarded Rs.1,50,000/- as compensation by including the Rs. 75,000/- towards cost or value of buffalo as well as Rs. 75,000/- loss of future income from milk during the life time of the buffallos.

[7.1] However, upon careful scrutiny of the record, it transpires that the plaintiff has failed to produce reliable and cogent evidence regarding exact milk yield from the buffallos in question. It needs to be appreciated that the respondent admitted in his cross examination that he has nine buffallos. Moreover, the respondent could not produce exact quantum of milk given by the buffallos in question. Further, there is lack of credible and cogent evidence indicating regular income from sale of milk given by the buffallos in question. Besides, the Ld. Trial Court has not given any finding on the age of buffallos and the average age of a buffallos which would have enabled it to ascertain as to for what period of time the buffallos would have given milk.

[7.2] The post mortem report at Exhibit-32 bears mention of the age of buffallos as seven years, however, there is no pleading and evidence indicating the life expectancy of the

buffalo and its pleaded. Hence, the claim for loss of future income is thus speculative in nature and not supported by any pleading and concrete proof. It is settled law that compensation must be based on proved loss and not conjecture.

[7.3] At the same time, this Court cannot be oblivious to the fact that the death of the buffalo is established and hence as a result of the same the respondent would have suffered actual loss as well as inconvenience. It is well settled that compensation in civil cases must be Just, fair, and reasonable and the same should be based on cogent and reliable evidence and not founded on speculation or conjecture. The compensation must be assessed on sound legal principles and should neither be arbitrary nor excessive. While some guesswork is permissible, the same must be based on reasonable material on record. Thus, the Courts must distinguish between proved loss and assumed future gain.

[7.4] The plaintiff has asserted that, the buffalo was approximately 7 years old and it was a milch animal having economic utility. The post-mortem report and oral evidence support the existence and ownership of the animal. However, no purchase invoice or valuation certificate has been produced and no independent witness such as a cattle trader or veterinary expert was examined to establish precise market value. Nevertheless, despite this, Courts can take judicial notice of prevailing rural livestock value, especially when the fact of ownership and death is proved.

Claim Towards Loss of Income

[8] The major component of the Trial Court's award relates to future income from milk production. The plaintiff claimed, daily milk yield of approximately 18–20 litres from the buffalo in

question and that regular sale of milk generating steady income. In support of this contention, a milk dairy record/passbook was produced at Exhibit-34. However, upon closer scrutiny this Court is of the view that there no clear linkage to establish that the sale of milk reflected from the said record pertained to the buffalo in question or that what was the quantum of milk yeilded from the buffalo in question. Thus, there nothing to conclusively establish that the income shown pertains solely to the deceased buffalo.

[8.1] It also needs to be appreciated that the respondent owned multiple buffaloes and no segregation of income from the specific buffalo is demonstrated. There is nno reliable evidence showing how long the buffalo would have continued to yield milk. Moreover, there is absence of corroboration to the contentions of respondent in this regard, and no dairy officer or independent witness was examined. Thus, the claim for future income remains uncertain and speculative.

[8.2] Legal Position on Future Income: Courts have consistently held that, loss of future income must be supported by clear, specific, and reliable evidence and in absence thereof, such claims cannot be granted. Compensation cannot be awarded on hypothetical or speculative future earnings and assessment of future income must be based on reasonable certainty and not on conjectures.

[8.3] Applying these principles, the award of compensation towards loss of future milk income by the Trial Court cannot be sustained. Besides, since the cost or value of the buffalo is awarded along with interest, the question of future loss of income from the buffalo through out the lifespan of the deceased buffalo is uncalled for.

[8.4] In this regard it would be apt to refer the decision of Hon'ble MadhyaPradesh High Court in case titled **Babu Kha Vs. M.P.P.K.V.V. Co. Ltd.** on 12 August, 2024; wherein trial Court decreed the suit and ordered the respondents No.1 to 3 to pay one lac compensation to plaintiff jointly and severally and it also awarded 6% per annum on the value of buffalo from the date of incident, however, the respondents/defendants filed an appeal and First appellate Court modified the decree of trial Court and reversed the order of the trial Court to the extent of granting the relief of income from milk. While dealing with the issue as to whether the first appellate Court was right in holding that the appellant is not entitled to get any amount words future loss of income ?, it was observed as thus:

5. Perused the record.

6. Trial Court in Paragraph-13 of the judgment allowed the compensation for the price of buffalo as Rs, 45,000/- and damages (loss of income) Rs. 55,000/-. The first Appellate Court rejected the prayer for damages in the head of loss of future earning.

7. The claim of appellant towards loss of earning is not justified in view of granting Rs. 45,000/- for purchasing new she Buffalo

[8.5] Hence, this Court is of the view that quantum of compensation awarded by the Ld. Trial Court under the head of future loss of income from the buffalo is required to be set aside, inasmuch as the compensation towards loss of income cannot be sustained. **Accordingly, the point No. 2 is answered in the Negative.**

What would be the just & reasonable compensation:

[9] As discussed above, since this Court is to adjudicate the issue of adequacy of compensation, it would the bounden duty of this Court to decide as to what should be the just, fair and reasonable amount of compensation.

[9.1] Having regard to the facts and circumstances of the case, this Court is of the view that in addition to the cost / value of the buffalo, the plaintiff would also be entitled to get compensation under the head of Actual Loss. This Court cannot be oblivious to the fact that the factors such as the buffalo being a productive asset, its death would result in immediate economic loss and that the respondent would have suffered hardship and inconvenience. Even in absence of exact proof, Courts are empowered to grant reasonable compensation. It is settled legal position that in cases where exact calculation is not possible, the Court must make a reasonable estimate based on available material.

[9.2] In the case at hand, taking into consideration, the age of buffalo being 7 years as per the post mortem report and considering its utility as a milch animal and having regard to the lack of precise valuation evidence as well as absence of proof for sustained future income, this Court finds it appropriate to reassess compensation on a lump-sum reasonable basis.

[9.3] The respondent pleaded the value of buffalo as Rs. 100,000/- in the pleading as well as in the affidavit in chief at Exhibit-28. In his cross examination it is admitted by the respondent that the said buffalo was not purchased but was born to a buffalo owned by him and that the said buffalo in question was raised by him. It is admitted that he has not produced any evidence regarding the health of the buffalo.

[9.4] Thus, there is absence of material to indicate the value of the buffalo. The breed of buffalo is also not established

on record; however, having regard to the age of the buffalo as emerging from the perusal of post mortem report, and the value of buffalo as claimed by the respondent, this Court is of the view that the Value of buffalo can be at Rs. 85,000/- (reasonable estimate). Further, this Court is of the view that the respondent would also be entitled to get some amount under thead of inconvenience, hardship, and incidental loss. The compensation under this head is assessed at Rs. 15,000/-.

[9.5] The above view taken by this Court is fortified by the decision of Hon'ble Karnataka High Court in case titled **The Divisional Controller vs Sri. Venkata Narayana And Anr**, in MFA no. 200589 of 2018 decided on 24 August, 2023, wherein it was observed and held as thus:

6. To establish yield from buffalo, the respondent produced post mortem report, statement of witnesses and milk vending passbook. Same would reveal age as five years. Ex.P9 - passbook would reveal that claimant was supplying 20 liters of milk per day. But, considering admission in cross-examination that Buffalo was yielding 5 to 6 liters milk at a time, Tribunal considered yield per day as 12 liters. Considering said yield and even after deducting amount towards expenses, compensation of Rs.1,00,000/- towards 'death of buffalo' and Rs.10,000/- towards 'loss of calf' cannot be stated to be unjustified or excessive. Therefore, there is no merit in appeal on quantum.

[9.6] In light of the above discussion, this Court deems it fit to quantify the amount of total Compensation as Rs. 1,00,000/- instead of total compensation of Rs. 150,000/- awarded by the Ld. Trial Court. The amount of compensation awarded by the Ld. Trial Court is modified and reduced to Rs. 1,00,000/-, inclusive of Rs. 85,000/- towards death of buffalo & 15,000/- towards inconvenience. **Point No. 3 is accordingly answered Partly in the Affirmative.**

[10] Accordingly the following final order is passed:

Final Order

(a) The appeal is partly allowed. The judgment and decree passed by the Trial Court stands modified on the aspect of quantum of compensation as the component towards loss of income is set aside.

(b) The finding regarding liability of the appellant – PGVCL is **confirmed**. Whereas, the compensation is **reduced from Rs. 1,50,000/- to Rs. 1,00,000/-**. The appellant is held entitled to: Rs. 1,00,000/- (Rupees One Lakh only) as compensation, recoverable from the appellant alongwith 6% per annum simple interest from the date of suit till realization.

(c) Parties shall bear their own costs of this appeal.

(d) Decree be drawn accordingly.

Record and proceedings of the Ld. Trial Court be sent back along with a copy of this judgment and decree.

Signed and pronounced in the open Court today on

this **30th DAY OF MARCH, 2026 at Porbandar.**

Date:- 30.03.2026.

Place:- Porbandar.

(**M. A. BHATTI**)
Principal District Judge,
P O R B A N D A R
Code No. **GJ01506**