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DECIDED ON : 21-06-2019.

DURATION : D - M - Y.

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IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
AT MANDVI. Camp At MANDVI-KACHCHH.

Sp. C. S. No. 122 /2018

Sp. C. S. No. 112 /2009 (OLD)

Exh No. 111 A

1. **Namrataben Wd/o Prakashbhai Vora,**
Age : 62, Occupation : House keeping,
2. **Margi D/o Prakashbhai Vora,**
Age : 21, Occupation : ...,
3. **Shashank S/o Prakashbhai Vora,**
Age : 19, Occupation : Study,
Planitiff No. 1 as legal Guardian of Plaintiff no. 2 (mentally
retarded)
Resi : Navapara, Tal- Mandvi-Kachchh. **Plaintiffs**

: VERSUS :

1. **Paschim Gujarat Vij Co. Ltd.**

Through

The Superintending Engineer,

Add : Kachchh Circle-Bhuj,

Jubilee Ground-Hospital Road

Bhuj-Kachchh

.....Defendant

Ld. Advocate for Plaintiffs : U.S. Suchday

Ld. Advocate for defendants : Y.D. Bhandarkar

Subject :- SUIT FOR THE RECOVERY OF RS. 7,50,000/-

JUDGMENT

1. The Plaintiff has preferred present suit for seeking compensation from defendant the brief facts of the said plaint are as under :
The plaintiffs are the resident of Navapar, Taluka Mandvi Dist. Kachchh. Plaintiff no.1 is widow of deceased she is carrying out household work, Plaintiff no. 2 and 3 are child of deceased. They carrying out study. Deceased Prakashbhai Mohanlal Vora was of 65 years old at time of incident. The defendants are the official in charge of the electricity co. carrying out the business of supply of electricity in the local limits of Kachchh District. Fateful incident has been taken place on 24/06/2009 about 09:30 in night. Deceased Prakashbhai Mohanlal Vora was reached near Sheetal Guest House at Nanalal Vora Marg, Mandvi, at the very pick of time, one electric live wire broken from pole and lying on the deceased, during passing through deceased came into contact

with live wire and got shock circuit and received serious injuries and died on the spot. Then for this incident complaint lodged at Mandvi Police Station on 24/06/2009, which was registered as Janva Jog Nondh No. 11/2009. Further it is case of plaintiff that this incident occurred on account of carelessness and negligence on the part of defendant. Even the defendant has not paid any compensation. Anilbhai earn Rs. 12,000/- from proceeding Vande Matram Provision Store and S.T.D. and P.C.O. and from pension. The deceased was well nourished and physically sound enough to undergo a lengthy and peaceful life. Due to the electrocution and negligence on the part of the defendant, plaintiff has to loose their head of the family and only earning person. Hence, this suit for compensation Rs. 7,50,000/- with the running interest of 18 % from filing of the suit and to draw the decree accordingly.. Plaintiffs have not sufficient means to survive so filed this suit in pauper capacity.

2. On being filed the present plaint, notices have been ordered to be issued to the defendant which have been served upon them. Upon service of the notice, the defendant was appearing through its Ld. Advocate Mr. Y.D. Bhandarkar and was filed its reply vide Exh no. 31, interalia denied plaintiff suit in Toto. The defendant specifically denied the contention that the nobody was intimated to PGVCL about the snapped or breaking of live wire or spreading current from electric poll. The defendant has also take stand that such incident has not occurred as plaintiff said but incident have occurred in private premises and plaintiff wrongfully turn

responsibility on defendant. The defendant also denied that the plaintiffs were depended upon the deceased. The defendant also denied the fact about the business of deceased. The said incident had taken place before the defendant knew about the snapping of wire but not repaired the same and it was happened due to heavy rain and rainstorm. The defendant has also contended that the incident was not due to their negligence and that the incident could have been happened due to heavy rain and rainstorm . The claim of plaintiff is excessive. The defendant also contended that there is no negligence on the part of the PGVCL. Under these circumstances, plaintiff's suit deserves to be dismissed.

3. In connection with the above issues, both the parties have been given an opportunity to lead their respective evidence documentary as well as the oral evidence. Before discussing merits of the case it is desirable to refer the said evidence lead by respective parties.

PLAINTIFF'S ORAL EVIDENCE:

- | | | |
|----|-----------------------------|--------|
| 1. | Namrataben Prakashbhai Vora | Ex. 51 |
| 2. | Bharatbhai Jaysukhlal Vora | Ex. 73 |

PLAINTIFF'S DOCUMENTARY EVIDENCE:

- | | | |
|----|--|--------|
| 1. | Letter to PI Mandvi Pst. to obtain police papers | Ex. 54 |
| 2. | Complaint – (Janvajog Nondh No. 11/2009) | Ex. 55 |
| 3. | Panchnama drawn by Mandvi Police
Station, Mandvi (Place of Incident)- | Ex. 56 |

4.	Inquest panchnama Of Deceased -	Ex. 57
5.	Post Mortem report	Ex. 58
6.	Death certificate of deceased –	Ex. 59
7.	STD PCO Telephone Bill total - 8 Bill	Ex. 60
8.	Copy of Pension Details certiificate	Ex. 61
9.	Copy of Pension payment certificate	Ex. 62
10.	Medical tratment papers of Plaintiff no. 2	Ex. 63

DEFENDANT'S ORAL EVIDENCE:

1. Om Prakash Harisinh Parmar (Dy. Exe. Engineer) Ex. 86

DEFENDANT'S DOCUMENTARY EVIDENCE:

1. Letter for preventive action. Ex. 106
2. Forecast letter to Mamlatdar mandvi Ex. 107

4. Plaintiff side has submitted his written argument at exh no. 110, I have heard ld. Adv. H S Sachday for the plaintiffs at length and also heard ld. Adv. Mr. D. P. Soni for the defendant.,
5. In connection of the pleadings of the respective parties, my predecessor brother Judge has framed the issues as under:

:ISSUES:

૧. શું વાદી પુરવાર કરે છેકે, તેઓ ગુજરાત પ્રકાશભાઈ મોહનભાઈ વોરા ના કાયદેસર ના વારસો છે.?

૨. શું વાદી પુરવાર કરે છેકે, શું દાવાવાળા બનાવ ને કારણે ગુ. પ્રકાશભાઈ મોહનભાઈ વોરા નું મરણ પ્રતિવાદી ની બેદરકારી અને નિષ્ઠાળજી થી થયેલ છે ?
૩. શું વાદી ઓ પ્રતિવાદીઓ પાસે થી વળતર ની રકમ મેળવવા હકકદાર છે ? જો હા તો કેટલી રકમ ?
૪. શું વાદીઓ દાવા રકમ ઉપર વ્યાજ મેળવવા હકકદાર છે? જો હા તો કેટલા ટકા ના દરે ?
૫. શું હુકમ અને હુકમનામું ?

6. The **findings** and the **reasons** of the issues framed vide Ex. 26 are as under:

- | | |
|----------------|--|
| 1. ISSUE NO. 1 | Affirmative |
| 2. ISSUE NO. 2 | Affirmative |
| 3. ISSUE NO. 3 | Partly Affirmative, As per the final order . |
| 4. ISSUE NO. 4 | Partly Affirmative, As per the final order |
| 5. ISSUE NO. 5 | As per the final order. |

:::--- R E A S O N S ----:::

7. ISSUE NO. 1

For the proff of such issue if we perused palint as wel as deposition of plaintiff no. 1 at Exh no. 51, there is specifically mentioned that Plaintiff no. 1 is widow of deceased Prakashbhai and plaintiff no. 2 and 3 are daughter and son of deceased Prakashbhai. If we take into consideration pension certificate of deceased Prakashbhai produced at exh no. 61, there in plaintiff no. 1's name "Namrataben" shown as wife of deceased Prakashbhai. Even defendant have not raised any query about relation of plaintiffs

with deceased. So, Plaintiff proved that they are legal heir of deceased Prakashbhai Mohanlal Vora. Therefore, **I decide issue no. 1 in affirmative.**

8. ISSUE NO. 2

These issues are discussed together for the sake of convenience and to avoid repetition of evidence as these issues are inter connected.

- 8.1 On these points, it is the case of the plaintiff that deceased Prakashbhai Mohanbhai Vora died because of he received electric shock on 24/06/2009 one electric live wire broken from pole and lying on the deceased, during passing through deceased accidentally came into contact with live wire and got shock and received serious injury and died on the spot. Further it is case of plaintiff that this incident occurred on account of carelessness and negligence on the part of defendant. Now it is not in much dispute that the deceased Prakashbhai Mohanlal Vora died due to electric shock on 24/06/2009. The post mortem report of deceased Prakashbhai Mohanbhai Vora produced at exh no 58. In said report at clause 23 i.e. opinion as to cause or probable cause of death clause the cause of Prakashbhai's death is shown as "The cause of death was cardio-respiratory arrest due to electric shock". Moreover, plaintiff Namrataben in her deposition at Ex. 51 has also stated that deceased Prakashbhai Mohanlal Vora died because of electric shock on 24/06/2009. Further she has stated that on 24/06/2009 at 09-30 in night while Prakashbhai Mohanlal Vora

was passing near Sheetal Guest House at Nanalal Vora Marg, Mandvi at the time he came in to contact with live electric wire, which snapped on the poll and due to electric shock Prakashbhai Mohanlal Vora died on the spot. Bharatbhai Jaysukhlal Vora , who was eye witness of incident has also in his deposition at ex. 73 supporting the version of plaintiff. The information was reported to police by Bharatbhai Jaysukhlal Vora , and police was reported said incident as accidental death report vide AD entry no. 11/2009. The information report is produced at ex. 55. It is also reveals that the death of Prakashbhai Mohanlal Vora caused due to electric shock. To confront this evidence, defendant has produced oral evidence at Exh.-86 and letter of preventive action vide Exh.-106 and forcast letter to Mamlatdar Mandvi vide Exh.-107 to show that death of Prakashbhai Mohanbhai Vora was not caused due to negligence of defendant. The defendant witness Om Prakash Harisinh Parmar (Dy. Exe. Engineer) in his deposition at ex. 86 also not denied that Prakashbhai Mohanbhai Vora died due to electric shock. From the above evidence it deserves to be accepted that the deceased died due to electric shock.

8.2 It is not sufficient that Prakashbhai Mohanlal Vora died due to electric shock to hold that Defendant is liable to pay compensation. So, the question comes as to whether deceased Prakashbhai Mohanlal Vora died because of electric shock happened on account of carelessness and negligent act of defendants.

9 On this point, it is argument of learned advocate for plaintiff that it is the duty of defendant board to see that no damage occurred to anybody in case of electricity wire breaking. It is the duty of defendant to maintain electric line properly so no incident took place. The learned advocate of plaintiff has place reliance in support of his argument on following case law.

- (1) Executive Engineer, GEB Jamnagar vs. Zubedabai Ibrahim
[2004 (1) GLR 227]
- (2) Bharatnath & ors vs. CESCO, Bhubaneswar.
[AIR 2007 (NOC) 570 (ORI)],
- (3) Ketki Lenka & ors vs. CESCO & ors.
[AIR 2007 (NOC) 568 (ORI)],
- (4) Gangadhar Mohanty vs. Chief Executive Officer & ors.
[AIR 2007 (NOC) 574 (ORI)],
- (5) Sec, KSEBoard & ors vs. Jayapalan K & anr
[AIR 2007 Kerala 112],
- (6) Smt. Maya Rani Banik and anr vs. State of Tripura [AIR
2005 Gauhati 64] Agartala bench
- (7) Rajkot Municipal Corpo. vs. Manjulaben Jayantilal Nakum
[1992 ACJ 792],

10 In the case of **Executive Engineer, GEB Jamnagar vs. Zubedabai Ibrahim [2004 (1) GLR 227]**. Hon'ble Highe court has held that “ **The Electricity Board which is a “state” engaged in a hazardous or inherently dangerous industry which possess a potential threat to the health and safety of the persons working in the Board or factory and residing in the**

surrounding areas owes an absolute and none delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it was undertaken. When Board had kept live wire near the plaintiffs' fencing wire also touches the fencing wire of the plaintiff and when plaintiff touched his fencing wire, he died immediately due to electric shock. In view of these facts and circumstances of the case the Board cant dispute its liability in its behalf. Deceased died due to electric shock because of negligence on the part of the defendant Board. It was the duty of the Electricity Board to maintain its poles.” In the case on hand it is transpires that the incident of electrocution happened due to broken live wire from the high voltage supply line pole which was snapped on the poll and lying on the road, where was deceased came into contact with live wire, he got electrocuted and passed away. Hence, the authorities helps the plaintiffs for proving their case.

10.1 I have carefully gone through the all other decision, in all these case Hon'ble high court held the negligence of electricity board to take necessary and proper care regarding supply line, wire. So, when it is admitted fact that the Prakashbhai Mohanbhai Vora came in to contact with live wire lying on the public road and get electric shock and due to shock he was died. It is for the defendant company to establish that there was no negligence on the part of it.

11 Now, coming to the defence of defendant. The defendant has raised only plea that due to heavy rain and rainstorm accident have taken place, hence, company is not responsible and it is only act of God.

11.1 The plaintiff side adduced ample evidence to show the accidental death of Prakashbhai Mohanbhai Vora caused because of negligent act of defendant. It is come out from the deposition of Plaintiff Namrataben that the said accident was occurred on account of gross negligence of defendant. Other witnesses of plaintiff has also stated same facts and supported the version of plaintiff. No material contradiction has been come out from cross examination except they are not made complain about position of wire in writing. The witness Bharatbhai Jaysukhlal Vora , who came to place of incident immediately after incident have taken place, has been examined at ex.73. it is come out from his deposition that on 24/06/2009, Prakashbhai Mohanbhai Vora was passing near by Sheetal Guest House at Nanalal Vora Marg, Mandvi and live wire was lying on the deceased. So deceased came into the contact of said live wire and get shock. Prakashbhai Mohanbhai Vora died on the spot. So accident took place is only because of negligence of defendant. In his cross examination he reiterated her chief examination to the fullest extent; no material contradiction has been extracted. From the above evidence of plaintiff, one thing is clearly emerges that the Prakashbhai Mohanbhai Vora died due to electrocution. No doubt nobody could be made complaint in writing to the defendants but only in absence of written complaint,

It is not desirable to throw out the oral evidence. Rule 91 of Indian Electricity Rule provides that every overhead line which is not covered with insulating material and which erected over any part of a street or other public place shall be protected with a device approved by the inspector for the rendering the line electricity harmless in case it breaks. Here in over case it is admitted position that live wire was fell down and due to lying of said wire on the road incident took place so principle of **Res ipsa loquitur** - [*The thing speaks for itself*] can be applied and there for it is for the defendant to prove that board was not in negligence and board took all protective measures for the maintenance of supply line. So let us see what evidence has produced by the defendant.

11.2 On defendant side only one witness namely Om Prakash Harisinh Parmar (Dy. Exe. Engineer) examined at ex. 86. It is come out from his deposition that he was deputy engineer in PGVCL, Mandvi City, sub division at relevant time. On 24/06/2009 wire was snapped from 3 face line and deceased get shock and died. He explained that due to unavoidable circumstances , deceased came into contact of live wire and died due to electric current. Event after incident nobody from village inform to defendant about incident. He is also stated that accident did not occur due to negligence of defendant company.

11.3 No other evidence has been produced by the defendant to show that at the relevant time due to some negligent act of deceased,

accident have taken place,. So, only oral statement without any supported evidence cannot be accepted. Further more maintenance register has not been produce by the defendant and thereby defendant has withheld material evidence which may have thrown light on the controversy about proper maintenance of line and wire and proper care has been taken or not by the board. Further more the defendant witness no where in his deposition said that he has personally visited the place of incident. Therefore, I am unable to accept the oral evidence. Therefore, when it is admitted fact that death of Prakashbhai Mohanbhai Vora was due to electrocution and live wire snapped down therefore fact thus far established speaks themselves and defendant utterly failed to prove that company has maintained supply line and wire in proper condition.

- 12 The defendant side made argument about the negligence of deceased. The defendant contended that if deceased take proper care then incident could have been avoided. It is unable to accept this contention also, because in deposition of eye witness Bharatbhai Jaysukhalal Vora vide Exh.-73 has clearly deposed that the wire was lying in such position normal man cannot know about lying of wire. In the cross examination of Bharatbhai, this evidence not shaken by the defendant. No any question was put forward to the witness about this evidence. So the fact stated by the eye witness about the lying of wire can be accepted as proved.

13 In our case live wire was lying on the deceased in such position should any person take risk to touch the wire if he is in knowledge about that the wire is live? Obviously not. Generally it can be presumed that no person can take risk of life to touch the live wire. This general presumption, so story of eye witness can be believable against this defendant has to prove that the with full knowledge that live wire lying on the deceased. No such evidence has been produced by the defendant on the contrary it is transpired from documentary evidence produced by both party. From the evidence of plaintiff side it is clearly established that on 24/06/2009, Prakashbhai Mohanbhai Vora was passing near Sheetal Guest House, Nanalal Vora Marg, Mandvi and live wire was lying on deceased and he came in to the contact of said live wire and get shock, And defendant has produced letter of preventing action vide Exh.-106 of warning about heavy rain and rainstorm and also produced forecast letter to Mamlatdar, Mandvi vide Exh.-107, but defendant side has not produced any evidence that when last time repairing work did on area where incident happend. So, defendant failed to show that they were taken due care before rain and storm happend in Mandvi. So. From these all document it is transpires that wire between pole wire broken due to heavy rain and rainstorm not by any act of deceased. So it is very much clear that if Defendant Co. has been taken due care and maintenance of wire then this fateful incident was not occurred. hence, argument about the negligence of deceased cannot be accepted.

14 It is the say of the defendant that the plaintiff has not informed the PGVCL regarding the incident and as such the same has requested this Court to draw inference against the plaintiffs. On this aspect this court does not agree with the contention raised by the ld. Advocate Mr. Soni because it can not be believed that if one does not redress its grievance; court can not automatically come to conclusion that incident of electrocution has not happened or it can never be interpreted that the person concerned is telling a lie. Ultimately, the plaintiffs has lost his beloved family member in the miserable incident which took place on the unlucky day. Hence, I would say that the downtrodden people affiliated with the house wife like plaintiff would never know that they should immediately inform the concerned authority. Therefore, plaintiff's case does not fail due to just plaintiff didn't inform to defendant. The evidence of the plaintiff also suggest plaintiff immediately inform to police and complaint filed before police and panchnama has been drawn by the police officer and Inquest panchnama and P.M. Report also support the version of plaintiff therefore, incident has been treated as an accidental death and made entry in relevant register by the concerned police station. In the case of **Smt. Maya Rani Banik and anr vs. State of Tripura [AIR 2005 Gauhati 64] Agartala bench**, Hon'ble High Court has held that Electric department can not denied claim on ground that non entry in their call book about incident. It is responsibility and duty of company that enter such incident in a call book claimants cannot be held responsible for same and denied their claim. Further, held that when no evidence on record that deceased was negligent in any

manner at time of incident claimant's wife and child of deceased entitle for compensation. Even in the case of **Bharatnath & ors vs. CESCO, Bhubaneswar**. [AIR 2007 (NOC) 570 (ORI)], **Ketki Lenka & ors vs. CESCO & ors**. [AIR 2007 (NOC) 568 (ORI)], **Gangadhar Mohanty vs. Chief Executive Officer & ors**. [AIR 2007 (NOC) 574 (ORI)], **Sec, KSEBoard & ors vs. Jayapalan K & anr** [AIR 2007 Kerala 112], **Rajkot Municipal Corporation vs. Manjulaben Jayantilal Nakum & Ors** [1992 ACJ 792], Hon'ble various High Courts have held that Electricity Board owed absolute duty to ensure that no harm is caused to any one due to hazardous nature of the activity. Considering ratio laid down by various High Courts in the case on hand it is transpires that the incident of electrocution has come in to play due hanging live wire from the high voltage supply line pole which was laid near house of the deceased, where was deceased came into contact with live wire, he got electrocuted and passed away. Hence, the authority does help the plaintiffs for proving their case.

- 15 Therefore from above discussion, I am of the opinion that it is clearly established that defendant's were negligent in maintaining electric line and wire properly and due to negligence of defendants deceased lost his life. I am also of the opinion that if for the sake of arguments, agree with the contention of defendant's, there is nothing any provision in law that without informing the concerned authority one can't get its remedy which is made available to him. So, Considering entire evidence produced by both parties and discussed as above this court came to conclusion that the

defendants are responsible for death of Prakashbhai Mohanlal Vora. Therefore, **I decide issue no. 2 in affirmative.**

16 ISSUE NO. 3 & 4.

In view of my finding on issue no.2 the defendant is responsible for death of deceased and therefore defendants are liable for pay compensation. Now question would come what should be the quantum of compensation be awarded to plaintiff ? and what should be the interest ?

16.1 There is no codified law for arriving at the quantum of compensation in cases of this type. The enactments like Motor Vehicles Act, 1988; Workmen Compensation Act, 1948; and Fatal Accidents Act, 1855 may be applied for arriving at the just compensation. In the decision reported in **(1969) 3 SCC 64 (C.K.Subramania Iyer v. T.Kunhikuttan Nair)** the Hon'ble Supreme Court held that there is no exact uniform rule for measuring the value of human life and the measure of damages cannot be arrived at precisely. In the decision reported in **(2001) 8 SCC 151 (M.S.Grewal v. Deep Chand Sood)** and **(2009) 6 SCC 121 (Sarla Verma v. Delhi Transport Corporation)**, the Hon'ble Supreme Court held that multiplier method may be adopted to arrive at the just compensation. The age of the deceased can also be taken for arriving at a correct multiplier .

16.2 In light of ratio laid down in above judgements, If we consider the depositions of P.W. 1 to 2 as well as the arguments of the the

plaintiff side, no evidence is shown by the plaintiff that deceased was earning Rs. 9000/- per month from pension, it is only contended in the plaint and accordingly deposed before this court by plaintiff herself and by plaintiff witness . Plaintiff has produced pension certificate of deceased for year 2009-2010 , In which it transpire that deceased died in month of june 2009 hence, his last pension shown as Rs. 7172/- . It is admitted that they have not proof to show income of deceased to be as pleaded and deposed. Mr. H. S. Suchday has submitted alternatively on the count of the issue of the income that if the court comes to the conclusion to award the compensation it be calculated as Rs.9000/- prospective income and multiplier of 7, the amount would be Rs. 5,04,000/- in all is to be awarded and not more than that hence, this court is of an opinion that so far as the calculation relating to the factor of income is to be done with due care and caution. So, it is well settled that What is meant by compensation is fair and not full? Which is reasonable and real compensation? At the time of deciding the quantum factor it is to be barred in mind (a) the income of the deceased at the time of his death,(b) the extent of dependency of the income of the deceased, and (c) The life expectancy of the deceased and the period up to which the deceased would have continued to earn income. so far as the above points no. (a) to (C) are concerned, it is to be calculated baring in mind the income of deceased as pleaded is 9000/- but here is no evidence produced by plaintiff side in this situation and considering present scinario if we take Rs. Rs. 7172/- (Round about 7200/-) amount as monthly income of decesed it is just and

proper. Now as per Rs. 7,200/- Per month out of which the share of the deceased can be 1/3rd i.e. Rs. 2,400/- per month is to be deducted from monthly income then clear loss of plaintiff per month is Rs. 4,800/-, then loss of income is now as estimated income Rs. 57,600/- (4800 X 12) per year which is to be multiplied by 7 (considering age of deceased) and the result is 4,03,200/- income loss of plaintiff . The Plaintiffs shall also be entitled to Rs.25,000/- for transportation of the body and as funeral expenses, Rs.25,000/- loss of estate and Rs.1,00,000/- in lieu of loss of consortium and loss of love and affection(Considering position of plaintiff no. 2 as mentally retarded daughter). So, Rs. 5,53,200/- would be reasonable amount for the compensation. As per sec. 18 of the Electricity (supply) Act, the defendant-PGVCL is liable to pay the compensation to the plaintiff and Plaintiff has ask interest on due amount at rate of 18 % but it is too high considering present scenario if interest at rate 7 % granted on due amount from date of filing of suit interest , the end of Justice will meet. **Hence, I reply the issue no.3 and 4 in partly affirmative.**

17 **ISSUE NO. 5**

As per discussion above plaintiff succeed to prove that Prakashbhai Mohanbhai Vora got electrocution and passed away and defendants are responsible for death of Prakashbhai Mohanbhai Vora. So, the defendants are responsible for death of deceased and therefore defendants are liable for pay compensation of Rs. Rs. 5,53,200/- with interest of 7 % from filing date of suit. Hence, I reply the issue no.4 in partly affirmative. In the facts and

circumstances of the case, I find some merits in this suit. **I, therefore, for the issue no.5 pass the following final order.**

::: O R D E R :::

1. The suit of the plaintiff is partly allowed.
2. The plaintiffs are entitle to recover Rs. 5,53,200/- in all from the defendants with running interest at the rate of 7% P.a. from the date of this suit till realization of the amount.
3. The defendant is directed to deposit the awarded amount in the court within two month from today.
4. On depositing the awarded amount with the registry of the court, the registry is directed to first deduct the amount of court fees. if any , Any interim amount if paid be deducted from the awarded amount .
5. After deducting requisite ccourt fee from the amount deposited by the defendant in the court, the plaintiff No.1 have 60 % and Plaintiff No. 2 and 3 have 20 % shares for each. So far as the amount falling their share, 60% amount is to be deposited in the Fixed Deposit Receipts with any of the Nationalized Bank of the cchoice of the plaaintiffs for the period of the 05 (Five) years and periodical interest accured thereon from time to time is to be paid to the plaintiffs and the remaining 40 % amount shall be paid to plaintiffs by account payee cheque.

6. The Concerned bank is directed not to grant any loan, advance or withdrawal against the F.D.R. without obtaining prior permission of the court.
7. The defendants shall pay the costs of the plaintiffs and bear their own.
8. A decree to be drawn accordingly.

This order signed and pronounced on day of 21th, June, 2019 in open court.

Date :- 21 - 06 - 2019

Mandvi - Kachchh.

(Narendrakumar G Parmar)

Principal Senior Civil Judge,

(camp at Mandvi)

JUDGE ID GJ00869

JUDGE ID GJ00297 (new)