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**IN THE COURT OF HON'BLE 3rd ADDITIONAL SENIOR
CIVIL JUDGE & A.C.J.M, KHEDA @ NADIAD**

Special Civil Suit No.22 Of 2022
EXH.46

Plaintiffs :-

**Legal Heirs of Late Chaganlal Mangilal Prajapati @
Kumbhar**

- 1. Mamtaben Chaganlal Prajapati**
Age : -, Occupation:Household.
- 2. Nilesh Chaganlal Prajapati (Minor)**
Age : 02 year, Occupation: -.
- 3. Rohit Chaganlal Prajapati (Minor)**
Age : 09 months, Occupation: -.
- 4. Pyariben Mangilal Prajapati**
Age : 68 years, Occupation: -.

All are Residing at Timba na Muvada, Thermal
Road,Ambika Shopping Center,
Tal. Nadiad, Dist. Kheda.

V E R S U S

Defendants :-

1. **Executive Engineer Of M.G.V.C.L.**
Madhya Gujarat Vij Company Kacheri.
Tal. Nadiad, Dist. Kheda.
2. **Dy. Executive Engineer Of M.G.V.C.L.**
M.G.V.C.L Thasra, Tal. Nadiad, Dist. Kheda.

Suit for Recovery of Rs. 60,00,000/- (Rs. Sixty Lakhs Only)
For Accidental Compensation

APPEARANCE :-

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Ld. Adv. for the Plaintiffs :- Mr. S.R Rohit

Ld. Adv. for the Defendant :- Mr. M.I. Mehta

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:- J U D G M E N T :-

1. Brief facts giving rise to the present suit are as under :-

The Plaintiffs are residents of Tiona Muvada, Taluka Galteshwar, District Kheda. Plaintiff Nos. 2 and 3 are the minor children of Plaintiff No. 1, and Plaintiff No. 4 is her mother-in-law. The Defendants are engaged in the business of supplying electricity in the State of Gujarat and are responsible for installing and maintaining electrical poles and transmission lines, including high-tension and low-tension lines. It is their statutory duty to ensure that such infrastructure is safely maintained and that no person or animal comes into contact with live wires, thereby preventing any risk to human life. However, the Defendants negligently allowed live electrical wires to pass dangerously close to a residential area with shops and

a public road, without taking adequate precautions or issuing any warnings to residents, thereby exposing the public to serious danger.

2. On 17/10/2017, at about 9:00 a.m., the husband of Plaintiff No. 1 and father of Plaintiff Nos. 2 and 3, namely Chhaganlal Mogilal Prajapati, while carrying out painting work on the upper floor of a shop, came into contact with a live electrical wire and was electrocuted. A relative who attempted to rescue him also suffered an electric shock. The deceased was immediately taken to K.M.G. Hospital, where he was declared dead. An accidental death case No. 23/17 was registered at Sevaliya Police Station, and the post-mortem confirmed electrocution as the cause of death. The Plaintiffs, having suffered immense shock and financial hardship, issued a legal notice claiming compensation of Rs.60,00,000/-; however, despite receipt of the notice, the Defendants have failed to pay any compensation and have given evasive replies.
3. The present suit has been filed as a pauper suit and pauper application was allowed on 20.08.2022 and the present suit as register as a Special Civil Suit and fresh notice were issued to the defendants.
4. Summons of the suit is duly served to the defendants. In response to the said summons, Mr. M.I.Mehta Ld. Advocate for the defendants have appeared on behalf of the defendant and filed reply at Exh.07 and denying all the details mentioned in the plaint and has further stated that the electricity company states that consumers often request

electrical connections for shops, residential houses, and public street lighting in developing areas, which requires installation of electric poles and overhead wires with proper safety precautions. In this case, deceased Chhaganlal Mangilal operated a two-shutter shop named “Mateshwari Vasan Bhandar” located at Ambika Shopping Center. Above the shop, an iron-angle sheet shed measuring approximately 15×10 feet had been constructed at a height of about 10 feet from the ground. An 11 KV three-phase electric line was passing over the shed at a distance of approximately 1.2 to 1.7 meters from the shop, supported by pole No.605. A second-floor terrace and open balcony were situated above the shed. The company claims that the electric line had been maintained regularly and safety measures were observed as per regulations. According to the company, while Chhaganbhai Prajapati and Shyamlal Prajapati were carrying out painting work and attempting to lift a board using ropes from the terrace, one end of the board accidentally came into contact with the 11,000-volt three-phase electric line passing above the shed. As a result, both persons suffered electric shock; Chhaganbhai fell on the terrace slab and Shyamlal fell unconscious on the roof. The company alleges that the shed in front of the shop was an unauthorized illegal structure and that the victims knowingly worked in a dangerous area near high-voltage wires despite being aware of the risks. Therefore, the company contends that the accident occurred due to the negligence of the victims

and not because of any fault on the part of the electricity company. On this basis, the company denies liability to pay compensation and requests dismissal of the compensation claim and recovery of costs from the plaintiffs, alleging that the notice and claim filed against the company are false and liable to be rejected.

5. Looking to the facts of the case, the following issues have arisen for deciding the case of the Plaintiffs, which are framed by My Learned Predecessor vide Exh.08 as under :-

:- I S S U E S :-

1. Whether the plaintiffs prove that deceased Chaganlal Mangilal Prajapati @ Kumbhar died due to electrocution from the electric wire at Mateswari Vasani Bhandar Thermal on 17/10/2017 ?
 2. Whether the plaintiffs prove that deceased Chaganlal Mangilal Prajapati @ Kumbhar died due to negligence of the defendant ?
 3. Whether the plaintiffs are entitled to get the compensation as prayed?
 4. Whether the plaintiffs are entitled to get interest on the amount of compensation? At what rate?
 5. Whether the plaintiffs are entitled for the relief as prayed?
 6. What order as to costs?
6. My findings to the above issues are as under :-
1. In Affirmative.
 2. In Affirmative.

3. Partly Affirmative.
4. In Affirmative.
5. Partly Affirmative.
6. As per final order.
7. The plaintiff produced the following oral as well as documentary evidence :-

Oral Evidence		
(1)	Affidavit of examination in chief of the Plaintiff – Mamtaben Chhaganlal Prajapati	Exh.09
(2)	Affidavit of examination in chief of the Plaintiff Witness – Shyamlal Mangilal Prajapati	Exh.22
Documentary Evidence		
(1)	Copy of Sevaliya Police Station Death Ad. No. 23/17	Exh.19
(2)	Telephone Vardhi	Exh.20
(3)	Panchnama	Exh.21
(4)	Inquest Panchnama	Exh.22
(5)	Closing Pursis	Exh.27

8. The defendants produced the following oral as well as documentary evidence :-

Oral Evidence		
(1)	Affidavit of examination in chief of the Defendant's Witness – Ashvinbhai Shankarbhai Chaudhari (J.r Engineer of M.G.V.C.L)	Exh.37
Documentary Evidence		

(1)	Photograph	Exh.26
(2)	Copy of Electricity Bill of Shyamlal Prajapati (Consumer No. 52040/01117/0)	Exh.31
(3)	Electricity Bill of Radhaben Shyamlal Prajapati	Exh.32
(4)	Closing Pursis	Exh.39

9. Mr. S.I Rohit, Ld. Advocate for the plaintiff has produced written arguments vide Exh.45 and has argued that, the present suit is filed for claim of Rs.60,00,000/-. Further, he has argued that the present Plaintiffs are the legal heirs and representatives of deceased Shri Chhaganbhai Mangilal Prajapati, who lost his life in an accidental electrocution caused solely due to the negligence, carelessness, and wrongful acts of the Defendants and their officials. On 17/10/2017 at about 9:00 a.m., while the deceased was carrying out painting work on the upper floor of Mateshwari Vasan Bhandar situated in a residential and commercial locality, he suddenly came into contact with a live electric wire and sustained a severe electric shock, resulting in his instantaneous death. The incident was duly reported before the concerned police station and registered as an accidental death case, whereafter the police carried out spot panchnama, inquest proceedings, and post-mortem examination. The documentary evidence produced on record, including the accidental death report, panchnama of the place of occurrence, inquest panchnama,

and post-mortem note, clearly establish that the death of the deceased occurred due to electric current from the live wire belonging to the Defendants' electricity distribution system.

- 10.** It is respectfully submitted that the Defendants, being authorities engaged in the transmission and supply of electricity, were under a statutory, legal, and public duty to properly maintain and supervise the electric lines and to ensure that no live wire or leakage endangered human life in a densely populated residential area. However, despite such duty, the Defendants failed to repair or disconnect the dangerous live wire, thereby committing gross negligence and breach of duty, directly resulting in the untimely death of the deceased. The Plaintiffs have proved their case through oral as well as documentary evidence, including the testimony of eyewitnesses present at the spot. Therefore, the Defendants are legally liable to compensate the Plaintiffs for the accidental death of the deceased. Accordingly, the Plaintiffs humbly pray that this Hon'ble Court may be pleased to decree the suit by awarding compensation of Rs.60,00,000/- together with interest from the date of filing of the suit till realization, along with costs of the proceedings and such other reliefs as deemed fit in the interest of justice.
- 11.** Mr. M.I. Mehta, Ld. Advocate for the defendants has filed argument vide Exh.44 and has argued that, the defendants, the original claimant, Mamtaben Chhaganlal Prajapati, along with minor legal heirs of the deceased, has instituted

the present claim seeking compensation of Rs.60,00,000/- together with interest and costs against the present defendants. It is the case of the plaintiffs that on 17/10/2017 at about 09:00 a.m., while the deceased Chhaganlal Prajapati was engaged in colour work at the first floor of “Mateshwari Vasani Bhandar” situated below his residence, he sustained an electric shock and succumbed to injuries. However, the plaintiffs have failed to specifically plead the exact manner in which the deceased allegedly came into contact with electricity, nor have they disclosed the precise legal basis or heads under which such exorbitant compensation is claimed, thereby demonstrating absence of clear, cogent and complete pleadings.

12. It is further submitted that the defendants have already filed a detailed written statement (Exh.7) and have opposed the documentary evidence including the FIR of accidental death, telephonic intimation, panchnama and inquest panchnama (Exhs.19 to 22). The panchnama clearly reveals that the incident occurred when a signboard of “Mateshwari Vasani Bhandar” was being lifted with a rope, and it came into contact with an overhead electric line passing at a height, resulting in the accidental electrocution. The plaintiffs have suppressed material facts and have attempted to shift the cause of accident by alleging broken live wires, which is contrary to the evidence on record and their own admissions during cross-examination. The evidence further establishes contributory

negligence on the part of the deceased, and it is submitted that the accident did not occur due to any negligence of the electricity company, but solely due to the deceased's own act. Hence, the claim is misconceived, misleading, and deserves to be dismissed with costs.

:- REASONS :-

ISSUE NO.(1) TO (6) :-

13. As all the points are inter-connected with each other to avoid repetition of the facts and law, all the points are discussed together.
14. It is important in this case to consider Section 104 and 105 of B.S.A 2023 which read as follows:-

Section 104 : Burden of proof- Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist, and when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Section 105: On whom burden of proof lies - The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

15. The plaintiffs have produced affidavit evidence of Mamtaben Chhaganlal Prajapati plaintiff in which he has stated the facts and averments of the suit plaint and for sake of repetition as hereby not mention again and the plaintiff has been cross examined by the defendant side in which he has admitted that his husband was gone to do the colour work in the house of Shyamlal who is the elder

brother of the deceased Chhaganlal Mogilal Prajapati and has further admitted that deceased husband Chhaganlal Mogilal Prajapati, was doing daily labour work and has earning Rs.200 to 300 and the incident as occurred at Mateshwari Vasani Bhandar it is distance 5 to 10 minutes from her house and has also further stated that place of incidence the electric wire were fasten towards shop from the road side and has also answered the question that incident has occurred when his husband was in the Mateshwari Vasani Bhandar. The plaintiff has also produced affidavit evidence of Shyamlal Mangibhai Prajapati in which he has stated the Chhaganlal Mangilal Prajapati has expired due to the electric shock from the live wire of the defendants which was broken and was not repaired and was in the crowded locality and deceased Chaganlal has come in contact with wire and has got a electric shock and try to save him but electric shock was very grievous and has further stated the facts mentioned in the suit plaint and try to support the case of plaintiff as regarding obtaining compensation from the defendants and the witness has been cross examined from the defendant side in which defendant has shown in the photograph of mark-25/1 which was identified by the that witness side and with plaintiff side having no objection the photograph given Exh.26 and as regarding the other questions has answered in support his affidavit evidence.

16. The defendant has produced affidavit evidence of Jr. Executive Engineer Ashvinbhai Shankarbhai Chaudhari

vide Exh.37 in which he has mentioned the facts and averments and for sake of repetition hereby not mention again and the witness has been cross-examined by the plaintiff side in which he has admitted the 11 KV electric line passing near by the house of the plaintiff and has also admitted that after the installation of 11 KV electric line no notice was given to the plaintiff for keeping the shop and house away of 11 KV electric line and as regarding the other questions answered accordingly supporting his affidavit evidence.

17. From the above facts and evidences it is clear that the present suit is for the compensation for the death of the Chaganlal who expired due to electric shock which is evident from the oral evidence of Exh.09 and Exh.23 and documentary evidences of Exh.19 Death Ad., Exh.21 panchnama of the scene and Exh.22 the inquest panchnama all the above clearly disclosed that deceased Chhaganlal expired due to electric shock from the electric wire passing above shop Mateshwari Vasan Bhandar which is also supported by the Exh.26 photograph which is produced by the defendant himself. The defendant has try to show that there is no negligence on the part of the defendant side by producing the evidences of Jr. engineer Ashwinbhai vide Exh.37 and Exh.26 but that makes it clear and supports the case of the plaintiff that death of the deceased Chhaganlal has occurred due to electric shock from electric live wires which are admittedly by defendant the wires putted by their company to supply electricity to

the consumers. Further it is a duty of the defendant to check and take care that electric wires which are putted in the crowded locality has to be examined and check regularly further no evidences produced that prior to accident when were electric wires were checked there is no report regarding that produced by the defendant side.

18. The plaintiffs have successfully proved through the accidental death papers, post-mortem report, police records, and oral evidence that deceased Chaganlal Mangilal Prajapati died on 17/10/2017 due to electrocution while carrying out painting work at “Mateshwari Vasan Bhandar.” The defendants have not disputed the occurrence of the incident or the fact that the deceased came into contact with the 11 KV electric wire. The evidence on record shows that the live high-tension electric line was passing dangerously close to the shop and terrace area where ordinary repair and maintenance work was being carried out. Being statutory authorities responsible for supply and maintenance of electricity, the defendants were under a legal obligation to maintain proper safety clearances and ensure that no danger was caused to the public. The defence that the shed was unauthorized or that the deceased himself negligently came into contact with the wire does not absolve the defendants of their statutory duty, particularly when no convincing evidence has been produced to prove that all mandatory safety measures and precautions were duly maintained. Therefore, this Court holds that the death of the deceased

occurred due to electrocution caused by negligence on the part of the defendants.

19. The plaintiffs, being the widow, minor children, and mother of the deceased, have suffered severe financial hardship and mental agony due to the untimely death of the sole earning member of the family. The defendants failed to pay any compensation despite issuance of legal notice by the plaintiffs. Considering the evidence regarding the occupation and dependency of the family upon the deceased, the plaintiffs are entitled to just and reasonable compensation along with interest from the date of filing of the suit till realization. Accordingly, the suit deserves to be decreed in favour of the plaintiffs with costs. From the evidence the plaintiff side not produced any evidences discloses income of the deceased Chhaganlal on the contrary as admitted that Chhaganlal was doing a labour work and 200 to 300 per day in the cross-examination of Exh.09 by the defendant side and this makes the claim Rs.60,00,000/- a huge and is also not supported by the other earning of the deceased Chhaganlal but it is a clear that deceased Chhaganlal was earning member of his family and has expired untimely due to electrocution and hence the dependents plaintiff deserves fair compensation which would be sufficient for livelihood of the 4 dependents wife, two children and mother. Hence in the interest of justice the present suit of compensation deserves to be allowed and compensation to the tune of Rs.25,00,000/- is awarded and **Hence, I answer Issue**

No.1,2 and 4 Affirmative and Issue No.3 and 5 Partly Affirmative and I, pass the following order towards Issue No.6 in the interest of justice.

- : O R D E R : -

- (1)** The Special Civil Suit No.22 of 2022 is hereby Partly Allowed. Defendants are hereby directed to pay compensation of Rs.25,00,000/- to the plaintiffs and interest at the rate of 06% from the date of this judgment till the payment of the compensation amount to the plaintiffs.
- (2)** Since the present suit was filed as a pauper suit the registry is directed to recover the court fees stamps as per rules from the plaintiffs from the amount of the compensation when paid to the plaintiffs.
- (3)** Parties to bear their own costs.
- (4)** Decree be drawn accordingly.

Signed and Pronounced in the open Court Today, on this 08th Day of May, 2026.

**Place:- Nadiad
Date:- 08.05.2026**

**(Rajeev I. Chopra)
3rd Addl. Senior Civil Judge &
A.C.J.M Kheda @ Nadiad
Code No.GJ00765**