

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 318 of 2025****With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/SECOND APPEAL NO. 318 of 2025**=====
PASCHIM GUJARAT VIJ COMPANY LTD.**Versus****BENABEN RAJABHAI VAGHELA (DELETED) & ORS.**
=====

Appearance:

MR CHINMAY M GANDHI(3979) for the Appellant(s) No. 1

MS NIKITA C GANDHI(11570) for the Appellant(s) No. 1

DELETED for the Respondent(s) No. 1

K K MAGHNANI(7543) for the Respondent(s) No. 4,5

MR K B MAGHNANI(9673) for the Respondent(s) No. 4,5

NOTICE SERVED for the Respondent(s) No. 2,3
=====**CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER****Date : 18/09/2025****ORAL ORDER****ORDER IN SECOND APPEAL :**

1. The present Second Appeal is filed against the judgment and decree passed by the appellate Court in Regular Civil Appeal No.40 of 2024 dated 30.11.2024 whereby the judgment and decree of the trial Court dated 09.01.2024 passed by the learned Principal Senior Civil Judge, Junagadh in Special Civil Suit No.34 of 2015 was confirmed and the appellate Court enhanced the amount of compensation to the tune of Rs.23,10,000/- (Rupees Twenty Three Lakhs Ten Thousand Only).

2. Learned advocate for the appellant has mainly argued that the plaintiff had preferred the Special Civil Suit No.34 of 2015 for compensation of Rs.15,00,000/- along with interest wherein the trial Court decree the suit vide judgment and decree dated 09.01.2024 and

awarded compensation amount to the tune of Rs.17,34,000/- (Rupees Seventeen Lakhs and Thirty Four Thousand Only) with interest @ 9% per annum from the date of filing the suit till realization of awarded amount along with proportionate costs from the defendant no.1. The said judgment and decree passed by the trial Court was challenged by the present appellant by filing Regular Civil Appeal No.40 of 2024. The said order was not challenged by the original plaintiff, however, the appellate Court has enhanced the compensation to the tune of Rs.23,10,000/- (Rupees Twenty Three Lakhs Ten Thousand Only).

3. Having heard learned advocate for the appellant and having considered the judgment and decree passed by the appellate Court, the matter requires consideration. Hence, the present **Second Appeal** is **admitted** on the following substantial questions of law.

“(a) That when there is evidence showing negligent act on the part of defendant Nos.2 & 3, whether the electricity company can be held to be negligent and when the electricity company is liable for payment of compensation thereof and can the Court pass decree on the principle of Rule of Strict liability ?

(c) Whether the learned trial Court is justified in not dealing with the issues separately and not giving any reasons for arriving at such conclusion of the issues ?

(e) That when admittedly, there is no allegation regarding negligence on the part of the appellant company, can it be fastened with the liability of paying the compensation ?

(f) Whether the learned trial court is right in granting enhanced amount of compensation in favour of respondent Nos.1 to 3 herein in the appeal filed by the present appellant, that too without there being any appeal or cross-objections being filed by respondent Nos.1 to 3 and they having permitted to attain the said right to attain finality ?”

ORDER IN CIVIL APPLICATION (FOR STAY):-

1. Heard learned advocate for the applicant.
2. Learned advocate for the applicant – original appellant has produced the copy of the *pursis* dated 26.05.2025 which is filed in Execution Application No.1 of 2024 showing the details regarding the payment of amount of Rs.31,49,677/- through seven different cheques, which is taken on record.
3. Having heard learned advocate for the applicant and having considered the fact that the appellant has already deposited the amount of Rs.31,49,677/- in Execution Application No.1 of 2024 through cheques so also having considered the fact that the main Second Appeal is admitted, interim relief in terms of Para:4(A) is stayed, till the next date of hearing of the main appeal. Direct service today is permitted.

MISHRA AMIT V.

(SANJEEV J.THAKER,J)