

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil First Appeal No. 75/1995

1. Rajasthan State Electricity Board, Rajasthan Jaipur.

2. Assistant Engineer, Rajasthan State Electricity Board,
Bhinder, Udaipur.
- Appellants-Defendants

Versus

1. Varda S/o Nanji, R/o Javtari, Tehsil Vallabh Nagar, Distt.
Udaipur.

2. Uda S/o Varda, R/o Javtari, Tehsil Vallabh Nagar, Distt.
Udaipur.
- Respondents-Plaintiffs

For Appellant(s)

:

Mr. Vikram Choudhary

For Respondent(s)

:

Mr. Kailash Trivedi

HON'BLE MR. JUSTICE SANDEEP TANEJA

Judgment

Date of Conclusion of Arguments	22.05.2026
Date on which judgment was reserved	22.05.2026
Whether the full judgment or only operative part is pronounced	Full Judgment
Date of Pronouncement	30.06.2026

1. The present civil first appeal has been filed by the defendants-appellants (for short 'appellants'), under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908, assailing the judgment and decree dated 28.02.1995 passed by the learned Additional District Judge No. 1, Udaipur (for short 'Trial Court') in Case No. 162/1991, whereby the civil suit for compensation filed by the plaintiffs-respondents (for short 'respondents') under the Fatal Accidents Act, 1955, was partly decreed.

2. A cross-objection under Order XLI Rule 22 of the Code of Civil Procedure, 1908 has been preferred by the respondents for

enhancement of the amount of compensation so awarded by the learned Trial Court.

3. The brief facts of the case giving rise to the present appeal are that the respondents filed a civil suit against the appellants, pleading therein that electrical line situated in village Javtari, Tehsil Vallabhnagar, District Udaipur was in a bad condition and the appellants were not paying enough attention to it and were being negligent. On 09.04.1991, at around 4 AM, when Punjki (since deceased) was going to attend to nature's call, a broken live wire was lying on the ground and she came in contact with the same. On account of being electrocuted, she started shouting, hearing which, her neighbour Ganpat @ Ganga went to help her, but he also got electrocuted and resultantly, both of them died due to electrocution. The respondents further stated that the accident occurred due to negligence, carelessness and inaction of the appellants and its employees, as when the wire fell down due to rusting, the appellants' employees paid no attention to the same; they neither cut off the power supply nor warned the public about the broken live wire, rather left the broken live wire lying on the ground in a populated area, causing the accident and the loss of two innocent lives. The respondents claimed a compensation of Rs.88,200/- under various heads, on account of death of deceased Punjki.

4. The appellants submitted written statement denying the contention raised by the respondents in the plaint. It was pleaded that there was no negligence on the part of the appellants in maintaining the electricity line. It was stated that in the

appellants' department, there is a provision that the maintenance of the electric line is required to be done before Diwali and also before the beginning of rainy season. It was further stated that on the date of the accident i.e., 09.04.1991, the electric wire broke and fell on the ground on account of heavy storm which occurred on midnight of 08.04.1991, due to which several trees also broke and fell on the ground. The appellants also stated that they were not informed of this, and thereby neither the broken live electricity wire was removed nor the power supply was immediately cut off, however, after getting information in the morning, the electricity supply was cut off. It was also stated that the accident took place due to the negligence of the deceased herself as she was carelessly walking when there was darkness and stepped on the broken wire, resulting in her death, and no liability can be imposed on the appellants for the negligence of the deceased. It was also stated that the accident was a result of Act of God. Accordingly, the appellants denied any responsibility for the death of the deceased and refused to pay any sort of compensation.

5. On the basis of rival pleadings, the learned Trial Court framed the following issues –

1. आया मृतका पुजंकी की मृत्यु दि० 09.04.91 को प्रतिवादीगण द्वारा विधुत लाईन के रख-रखाव में लापरवाही बरतने, उपेक्षा बरतने व विधुत लाईन टुटने पर भी कर्मचारियों की लापरवाही से विधुत प्रवाह जारी रखने से हुई।

— वादी

2. आया मृतका की मृत्यु से वादीगण को रु. 88,200/- रु० की क्षति हुई, जिसे प्रतिवादीगण अदा करने को दायित्वाधीन है।

— वादी

3. आया वादीगण मृतका के उत्तराधिकारी हो क्षतिपूर्ति प्राप्त करने की अधिकारी है।

— वादी

4. आया दुर्घटना हेतु प्रतिवादी जिम्मेदार नहीं है।

— प्रतिवादी

5. दादरसी ।

5.1 The respondents examined two witnesses, namely Uda (PW-1) and Babar Singh (PW-2), and produced documents which were marked as Ex-1 to Ex-4. On the other hand, the appellants examined four witnesses, namely Kalipath (DW-1), Phool Singh (DW-2), Bhanwar Singh (DW-3) and Bhaje Singh (DW-4), and produced one document marked as Ex-A-1-A.

5.2 The learned Trial Court, after examining the pleadings and evaluating the evidence available on record, partly decreed the civil suit holding that the appellants were negligent and responsible for occurrence of the accident, and awarded a compensation of Rs.40,330/-, along with interest @ 6% from the date of filing of the civil suit till recovery, in favour of the respondents.

6. Being aggrieved by and dissatisfied with the impugned judgment and decree, the present appeal has been preferred by the appellants praying for setting aside the impugned judgment and decree and for dismissal of the civil suit.

6.1 On the other hand, being dissatisfied with the compensation so awarded by the learned Trial Court, the respondents have filed the cross-objection in the present appeal, seeking enhancement of the said compensation amount.

7. Learned counsel for the appellants submitted that the learned Trial Court erred in deciding issue Nos.1 & 4 against the appellants as the electric line broke due to the severe storm which took place on the midnight of 08.04.1991, and the accident did not occur due to negligence of the appellants as the electric line was properly maintained by them and they were acting in accordance with the rules of the department with regard to the maintenance of the electric line. Learned counsel further submitted that the learned Trial Court failed to properly evaluate the evidence available on record and wrongly arrived at a conclusion that no storm took place on the night of 08.04.1991. It was further submitted that the accident was a result of Act of God.

7.1 Learned counsel also submitted that the power supply in the electric line under question was cut-off immediately when the appellants got to know about the falling of the broken live electric wire on the ground, hence, no negligence can be attributed to the appellants for occurrence of the accident. He also submitted that the accident was the result of the negligence of the deceased herself as she was walking without due care and thereby placed her foot on the live wire, resulting in her death along with Ganpat, and therefore, prayed to quash and set-aside the impugned judgment and decree and also to dismiss the civil suit filed by the respondents.

8. *Per contra*, learned counsel for the respondents opposed the submissions made on behalf of the appellants and supported the findings given by the learned Trial Court, particularly with regard to the finding of negligence on the part of the appellants in

properly maintaining the electric line, and thereby holding the appellants liable for the occurrence of the accident.

8.1 With regard to the cross-objection filed by the respondents, learned counsel made the following submissions:

- (i) The deceased was engaged in doing agriculture work. However, the learned Trial Court awarded a lump-sum amount of Rs.33,330/- as compensation towards loss of dependency holding that the income of the deceased could not be proved. It is submitted that even in the absence of any proof, the income of the deceased ought to have been assessed on the basis of minimum wage notified at the relevant point of time which was Rs.22/- per day.
- (ii) While calculating the loss of dependency, considering the age of the deceased at the time of accident, which was 60 years, addition @ 10% is required to be made in the income of deceased towards future prospects and multiplier of 9 should also be applied.
- (iii) The learned Trial Court awarded compensation of Rs.5,000/- towards loss of consortium to the respondent No.1 only, whereas the compensation of Rs. 40,000/- to each of the respondents, should be awarded towards the same.
- (iv) Compensation of Rs.2,000/- was awarded under the head of funeral expenses, however, the respondents are entitled to compensation of Rs.15,000/- under the said head.
- (v) The respondents are further entitled to compensation of Rs.15,000/- under the head of loss of estate.

8.2 Learned counsel relied upon the following judgments passed by the Hon'ble Supreme Court:-

- (i) **Sarla Verma & Ors vs Delhi Transport Corp. & Anr.**, reported in **2009 (6) SCC 121**.
- (ii) **National Insurance Company Ltd. Vs. Pranay Sethi**, reported in **(2017) 16 SCC 680**.

9. Heard learned counsel for the parties and perused the material available on record.

10. With regard to issue Nos.1 & 4, the case of the appellants is that they were not negligent in maintaining the electric line situated in village Javtari and the accident was a result of Act of God as a heavy storm occurred on midnight of 08.04.1991, due to which the electric line got broken and fell on the ground.

10.1 During the trial, Uda (PW-1), son of the deceased, in his testimony stated that the condition of electric line was not good. As usual, at 4 AM, his mother went to attend nature's call and she got electrocuted due to a broken electric wire lying on the ground. He further stated that no storm occurred on the last night and even before that. It was also stated that he had never seen the electric line being repaired in last three years and the line-man Bhanwar Singh was posted in his village but he used to go to Bhinder daily.

10.2 Babar Singh (PW-2), in his testimony, stated that the deceased and Ganpat died due to electrocution. He further stated that deceased went to attend nature's call and shouted for help. Ganpat reached on the spot and he also died. He also stated that the lineman, Bhanwar Singh, was posted in Javtari; however, he

was not present in the village on that day and did not usually remain there on a daily basis. He further stated that the weather on night of that day was dry and no storm occurred that night.

11. In this regard, the witness examined by the appellants namely, Kalipath (DW-1), in his testimony, stated that on midnight of 08.04.1991 there was a storm. He, however, stated that not many wires fell in the subdivision that day. He admitted that the wire was broken. It was also stated that the line was repaired a day before the accident, however, he admitted that no entry or register was produced regarding the same. He further stated that on 09.04.1991, this was the only incident that occurred. To its contrary, Phool Singh (DW-2), in his testimony, stated that wires in the surrounding villages were broken and that no electrical work was done in his village before the day of accident. He admitted that line-man Bhanwar Singh was a resident of Bhinder and used to go there frequently.

11.1 Further, Bhanwar Singh (DW-3), in his testimony, stated that heavy storm occurred on night of 08.04.1991, causing the electric wires to break. He deposed that after getting information of accident, he went to GSS and cut-off the power supply. He further stated that trees fell down in other villages as well. He further stated that maintenance work was done once or twice in a month or two after receiving complaint. It was also stated that after doing maintenance, entry is made into the register, however, he could not tell when the said line was last maintained. He admitted that he was resident of Bhinder but denied that he went to Bhinder on the day of incident. Bhaje Singh (DW-4), in his

testimony, stated about the occurrence of storm. He expressed ignorance as to whether the electric line had been changed or not.

12. The testimonies of DW-1, DW-2, and DW-3 do not support the appellant's case that the accident was caused by a storm, rather demonstrate that no repair work was carried out on the electric line before the accident. Though DW-3 stated that maintenance had been undertaken, but no documentary evidence was produced to substantiate the same. It is also pertinent to note that the investigating authority in Naksha Mauka (Ex-2) clearly stated that at the spot of accident, a broken wire was lying, which was rusted and carbon was also there on the same due to which it broke down.

13. A close analysis of the evidence available on record, reveals that the electricity line had not been repaired for a long time, and also that there was negligence on the part of line-man Bhanwar Singh who instead of being present on his duty, went to Bhinder on the night of the incident. The evidence nowhere reflect that any storm occurred on 08.04.1991 resulting into electric wire being broken down. Therefore, the contention of the appellants that they had properly maintained the electric line and that the accident was an Act of God, lacks merit. Accordingly, the findings of the learned Trial Court upon issue No.1 regarding the negligence in occurrence of the accident and upon issue No.4 regarding the liability of the appellants, are affirmed.

14. Apart from the above, it would be relevant here to discuss the applicability of the principle of Strict Liability. As per this principle, liability can arise even without proof of negligence if the escape or

transmission of a dangerous substance, such as electricity, causes harm.

14.1 In this regard, it is also relevant to refer to the following observation made by the Hon'ble Supreme Court in the case of **Parvati Devi and Ors. Vs. Commissioner of Police, Delhi and Ors.**, reported in **(2000) 3 SCC 754**:

"2. The appellants moved the High Court of Delhi claiming compensation as the husband of Appellant 1 died on account of electrocution while walking on the road. That the death was on account of electric shock is established in view of the CFSL report from Calcutta. But as the appellants could not produce relevant materials indicating the negligence of any particular officer of the authority, the High Court refused to award compensation. It is against this order, the present appeal has been filed. Once it is established that the death occurred on account of electrocution while walking on the road, necessarily the authorities concerned must be held to be negligent, and therefore, in the case in hand, it would be NDMC who would be responsible for the death in question. It is found from the records that the appellant was serving as a machineman in The Statesman and was aged 54 years on the date of death, and the age of retirement is 60 years. Taking these factors into consideration, we direct that the appellants, who are the legal heirs of the deceased, be awarded compensation to the tune of Rs.1,00,000 and NDMC should pay the same within 3 months from today failing which it will carry interest at the rate of 12 %. This should be in total satisfaction of the compensation for the legal heirs of the deceased."

(emphasis supplied)

Further, the Hon'ble Supreme Court in **Madhya Pradesh Electricity Board Vs. Shail Kumari and Ors.**, reported in **(2002) 2 SCC 162**, while interpreting the principle of strict liability in a case where death was caused due to electrocution, held 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 it 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 to his private property and that the electrocution was from such diverted line. It is the look out of 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."

(emphasis supplied)

This Court finds that the above observations of the Hon'ble Supreme Court with regard to the principle of strict liability are squarely applicable to the facts of the present case where the death of deceased took place by electrocution on account of a live electric wire lying on the ground, and for this reason also, the

appellants are responsible for the occurrence of the accident-causing death of the deceased and Ganpat, and are consequently, liable to pay just and fair compensation to the respondents.

15. Insofar as the cross-objection filed by the respondents for enhancement of the compensation so awarded by the learned Trial court is concerned, upon perusal of the record, it is apparent that PW-1 in his testimony has stated that at the time of accident, the deceased was engaged in doing agricultural work. The said testimony has remained unrebutted. However, the respondents failed to produce any cogent evidence regarding the monthly income of the deceased.

15.1 The Hon'ble Supreme Court in the case of **Govind Yadav Vs. The New India Insurance Company Limited**, reported in **(2011) 10 SCC 683**, has held that in absence of any evidence, the loss of earning should be determined on the basis of minimum wages prevalent at the relevant point of time. For ready reference, the relevant paragraphs of the said judgment are reproduced below:-

"20. A brief recapitulation of the facts shows that in the petition filed by him for award of compensation, the Appellant had pleaded that at the time of accident he was working as Helper and was getting salary of Rs. 4,000/- per month. The Tribunal discarded his claim on the premise that no evidence was produced by him to prove the factum of employment and payment of salary by the employer. The Tribunal then proceeded to determine the amount of compensation in lieu of loss of earning by assuming the Appellant's income to be Rs. 15,000/- per annum. On his part, the learned Single Judge of the High Court assumed that while working as a Cleaner, the Appellant may have been earning Rs. 2,000/- per month and accordingly assessed the compensation under the first head.

21. Unfortunately, both the Tribunal and the High Court overlooked that at the relevant time

minimum wages payable to a worker were Rs. 3,000/- per month. Therefore, in the absence of other cogent evidence, the Tribunal and the High Court should have determined the amount of compensation in lieu of loss of earning by taking the Appellant's notional annual income as Rs. 36,000/- and the loss of earning on account of 70% permanent disability as Rs. 25,200/- per annum."

In view of the above, the monthly income of the deceased would be calculated as per the minimum wages notified by the State Government at the relevant point of time. The minimum wage at the relevant point of time was Rs.22/- per day, hence the monthly income of the deceased would amount to Rs.660/-. Accordingly, the compensation for loss of dependency shall be calculated on the basis of the said amount.

16. With regard to rest of the contentions raised by learned counsel for the respondents, in light of the principles laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra) and **Magma General Insurance Company Vs. Nanuram @ Chuhru Ram & Ors.** reported in **(2018) 18 SCC 130**, this Court is of the opinion that the compensation as awarded by the learned Trial Court deserves to be enhanced in the following terms:

- (i) Since, at the time of accident, the age of the deceased was 60 years, therefore, while calculating the compensation towards loss of dependency, addition @ 10% will be made in the income of the deceased towards future prospects and multiplier of 9 will also be applied.
- (ii) Since, at the time of accident, there were two dependants upon the deceased, therefore, 1/3rd of her income would be deducted towards her personal expenses.

- (iii) Under the head of loss of consortium, each of the respondents is entitled to get compensation of Rs.40,000/- separately.
- (iv) Compensation of Rs.15,000/- will be awarded towards funeral expenses.
- (v) The respondents are also entitled to Rs.15,000/- under the head of loss of estate.

17. As a result of above discussions, the compensation payable to the respondents is re-computed as under:

S.No.	Particular	Amount assessed
1.	Monthly Income	Rs.22 x 30 = Rs.660/-
2.	Annual Income	Rs.660 x 12 = Rs.7,920/-
3.	According to the age of the deceased i.e. about 60 years, multiplier of 9 to be applied	Rs.7,920 x 9 = Rs.71,280/-
4.	As per dependency, 1/3rd income to be deduced for personal expenses of the deceased (-)	Rs.71,280/- - Rs.23,760/- = Rs.47,520/-
5.	Add 10% towards future prospects (+)	Rs.47,520/- + Rs.4,752/- = Rs.52,272/-
6.	Loss of Consortium (two dependants)	Rs.80,000/-
7.	Loss of Estate	Rs.15,000/-
8.	Funeral Expenses	Rs.15,000/-
	Total Compensation (S.No.5+6+7+8)	Rs.1,62,272/-
	Less amount awarded by the learned Trial Court (-)	Rs.40,330/-
	Enhanced amount of compensation	Rs.1,21,942/-

18. Accordingly, the compensation awarded by the learned Trial Court is enhanced by **Rs.1,21,942/-**. The appellants are directed

to deposit the enhanced amount within a period of two months from today.

19. It is directed that the enhanced amount shall carry interest at the same rate as awarded by the learned Trial Court, from the date of filing of the civil suit. The enhanced amount shall be disbursed in terms of the judgment and decree passed by the learned Trial Court.

20. As a result of above discussion, the civil first appeal filed by the appellants, being devoid of merit, is **dismissed**, and the cross-objection filed by the respondents is **partly allowed** in the above terms.

21. All pending applications, if any, also stand disposed of.

22. The Registry is directed to send back the record of the case to the concerned learned Trial Court forthwith.

(SANDEEP TANEJA),J

Dharmendra Rakhecha/-