

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****219****RSA-1525-2012 (O&M)****Date of decision: 30.03.2026****Master Sahil****...Appellant(s)****Vs.****The Punjab State Electricity Board, Patiala
and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rishu Mahajan, Advocate
for the appellant.

Mr. H.S.Baidwan, Advocate
for the respondents.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the plaintiff against the judgment and decree dated 12.11.2011 passed by the learned Additional District Judge, Gurdaspur; whereby the Civil Appeal filed by the respondent No.2/defendant No.2 was partly allowed and compensation of Rs.20 lacs awarded to the appellant by the learned Additional Civil Judge (Senior Division), Pathankot, has been reduced to Rs.10 lacs alongwith interest @ 6% per annum from the date of filing of suit till realisation.

2. Brief facts of the case are that the plaintiff/appellant had filed a Civil Suit for grant of decree of recovery of Rs.20 lacs as damages from the defendants. It was pleaded in the plaint that plaintiff is residing in the house of his grandfather Sh. Jagdish Mitter located within the municipal



limits of Pathankot. It was stated that on one side of the house, abutting the municipal street, there was a 33 KV High Tension Wire which had been installed by the defendant/respondent-Punjab State Electricity Board (hereinafter referred to as "P.S.E.B."). It is contended that P.S.E.B. had passed the said wire despite valid objections of the locality; and despite request, wire had not been removed. In 1996, Smt. Roop Rani, grandmother of the plaintiff had got entangled in the said electricity wires and got 55% burns on her body. Plaintiff was 5 years old and kindergarten student. On 15.12.2000 at about 4:15 p.m., when plaintiff was flying kite on the roof of the house of his grandfather, while engrossed in this act, plaintiff went near the electric wire and due to high potency of the same, he suffered electric shock and got injuries. It was averred that occurrence was witnessed by mother Madhu Bala and grandfather Jagdish Mitter of the plaintiff. It was further averred that plaintiff remained admitted from 15.12.2000 till 31.12.2000 and an amount of Rs.48,000/- had been spent on his treatment. Plaintiff was again admitted on 01.01.2001 till 10.01.2001. In order to save the life of the plaintiff, doctors had amputated his left arm, right hand, right and left leg of the plaintiff. Plaintiff was still under treatment. More than Rs.2 lacs has been spent on his treatment. Services of the Attendant are permanently required. Notice was served upon the defendants but they failed to respond. The occurrence was also reported to the police on 16.12.2000. Defendants were asked to admit the claim of the plaintiff, but they refused to accept. Hence, present suit was filed on 23.08.2004.



3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Additional Civil Judge (Senior Division), Pathankot had decreed the suit of the plaintiff vide judgment and decree dated 04.09.2008 in the following manner: -

“19. As a result of my findings on the issues above, especially on issues no. 1 above, the suit filed by the plaintiff succeeds and the same is hereby ordered to be decreed for the recovery of Rs. 20,00,000/- (twenty lakhs) as compensation and damages against the defendants alongwith interest @6% per annum from the date of filing of the suit till realization. It is made clear that the amount of requisite court fee which was required to be affixed on the plaint is to be deducted from the decretal amount. A separate note in this regard be made in the decree-sheet to the effect that requisite court fee from the decretal amount be deducted at the time of realization of the same. Decree-sheet be prepared accordingly. The file be consigned to be record room.”

4. However, the Civil Appeal filed by defendant No.2 was partly allowed by the learned Additional District Judge, Gurdaspur vide impugned judgment and decree dated 12.11.2011 in the following manner: -

“..... thus, after calculating the permanent bodily incapacity and deformity, mental, Physical disappointment, pain and suffering, medical expenses, frustration and future prospects, this court is of the considered opinion that respondent is entitled to compensation as damages to the tune of Rs. 10 Lacs alongwith interest at the rate of 6% per annum from the date of filling the suit till the realization. The judgment



passed by learned trial court is modified to this extent. The appeal is accepted to this extent. Accordingly, the present civil appeal is partly accepted and the suit of the respondent/plaintiff is partly decreed.”

5. Hence, present Second Appeal by the plaintiff.

6. It is *inter alia* submitted by learned counsel for the appellant that it is undisputed fact on record that as a result of the high-tension wire installed by the respondents/defendants, appellant had suffered 100% permanent disability. It is submitted that in view of this fact, learned First Appellate Court ought to have increased the amount granted by the learned Trial Court but unfortunately that has not been done.

7. It is further submitted that on the one side First Appellate Court states that it has fully appreciated all the facts and fully appreciated the evidence led by the parties and Id. Trial Court has passed well reasoned Judgment after appreciating the documents, yet, on other side has reduced the damages to Rs.10 lacs. The Additional Civil Judge, Pathankot has provided Rs. 20 Lacs as damages under various heads, as follows: -

a.	Damages/compensation for permanent bodily incapacity and deformity	Rs.10,00,000-00
b.	Damages for mental, physical shock, pain suffering, already suffered or likely to be suffered in future.	Rs. 5,00,000-00
c.	Medical expenses, disappointment frustration and mental stress in life	Rs. 5,00,000-00



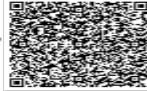
8. Ld. Counsel submits that the learned First Appellate Court while reducing the damages has come to the conclusion that the damages awarded under the Serial No (B) and (C) are same in nature. Thus, learned First Appellate Court has only given the compensation under one head that is (A) of Rs. 10 Lacs. The learned First Appellate Court Id. has totally erred while reducing the damages and stating that the damage provided under the Serial No (B) and (C) are of same in nature whereas both the heads are totally different. Serial (B) provides the damages under Mental Status, physical shock, pain suffering, already suffered or likely to be suffered in future, the appellant has suffered the pains, shock at the time of electrocution and has to suffer this for his entire life. Serial (C) was of Medical Expenses, disappointment frustration and mental stress in life. The Medical expenses will be spent on the appellant throughout his life, frustration and mental stress will be increased with the passage of time when the appellant will grow in his age, all his colleagues will lead better life and the appellant is dependent on others for his entire life. It is submitted that the learned First Appellate Court has failed to appreciate that the appellant will require one Attendant for the rest of his life. Appellant had to depend on others for his entire work, and he can never be compensated in any manner for the loss suffered by him. In the accident in question, appellant had lost his both legs alongwith left arm and right hand which have also been amputated but the learned First Appellate Court has totally failed to apply its mind while reducing the amount of damages. It is further submitted that *“even otherwise if the*



finding of the Id. Court regarding the damages is taken under consideration then also the amount of Rs.5 lacs should have been deducted from the entire amount, as the Id court below has reduced the amount stating that the damages under Serial (b) and (c) are same in nature.”

9. Learned counsel for the appellant further submits that even interest has been granted on the lower side. Ld. Counsel accordingly prays that *“the present appeal be allowed; the impugned judgment dated 12.11.2011, passed by the learned First Appellate Court may kindly be set aside in the interest of justice and equity and the damages provided may kindly be increased seeing the condition of the appellant.”*

10. *Per contra*, learned counsel for the respondents/defendants vehemently opposes submissions made on behalf of the appellant. He *inter alia* submits that high tension wire had been initially installed by the B.B.M.B. in the year 1957-1958. Thereafter, in 1997, line had been transferred to P.S.E.B. for maintenance. It is submitted that under Rule 82 of the Indian Electricity Rules, it is directed that no construction is to be allowed under high voltage line without permission of the Electricity Department. Despite that grandfather of the appellant has raised construction below high voltage line. No such permission had been sought by the grandfather of the appellant either from the Electricity Department or from the Municipal Corporation. Nothing has been brought on record to show that any such permission has been sought by the grandfather of the appellant from the Municipal Corporation concerned. Even the



Municipal Corporation concerned is not impleaded which may have granted permission to the grandfather of the appellant to raise construction under the high voltage line. Therefore, at best, it is a case of contributory negligence. It is accordingly prayed that accident had not occurred due to any fault on the part of the respondents but was due to carelessness of the appellant and his family.

11. It is further submitted that accident has occurred when the appellant was flying kite on the rooftop. It is contended that therefore, it is for the parents of the appellant to have ensured that in view of the high voltage wire, he does not fly kite. Moreover, high voltage wire is not next to the house of grandfather of the appellant; but is situated on the street.

12. It is lastly submitted that respondent has already paid Rs.16 lacs to the appellant in the year 2014. He accordingly prays for dismissal of the present Second Appeal.

13. No other argument is raised on behalf of learned counsel for the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant.

14. First and foremost, learned counsel for the appellant has not been able to dispute that the high voltage 33 KW wires were initially installed by the B.B.M.B. in the year 1957-58; and it was only in the year 1997, that the defendant was assigned the responsibility of maintaining the said wires. As per Rule 82 of the Indian Electricity Rules, it is clearly stipulated that after installation of the said high voltage wires, if any



construction is to be undertaken in the vicinity of the said high voltage wires, then prior permission has to be taken from the Electricity Department. It is not disputed by Id. Counsel for the appellant that such permission was not taken before raising construction. For absolute clarity, Rule 82 of the Indian Electricity Rules is reproduced here under: -

“82. Erection of or alternation to buildings, structures, flood banks and elevation of roads-

(1) If at any time subsequent to the erection of an overhead line (whether covered with insulating material or bare), any person proposes to erect a new building or structure or flood bank or to raise any road level or to carry out any other type of work whether permanent or temporary or to make in or upon any building or structure of flood bank or road, any permanent or temporary addition or alternation, he and the contractor whom he employs to carry out the erection, addition or alteration, shall if such work, building, structure, flood bank, road or additions and alterations thereto, would, during or after the construction result in contravention of any of the provisions of rule 77, 79 or 80, give notice in writing of his intention to the supplier and to the Inspector and shall furnish therewith a scale drawing showing the proposed building, structure, flood bank road, any addition or alteration and scaffolding required during the construction.

(2) (a) On receipt of the notice referred to in sub-rule (1) or otherwise, the supplier shall examine whether the line under reference was lawfully laid and whether the person was liable to pay the cost of alteration and if so, send a notice without undue delay, to such person together with an estimate of the cost of the expenditure likely to be incurred to so after the overhead line and require him to deposit, within 30 days of



the receipt of the notice with the supplier, the amount of the estimated cost.

(b) If the person referred to in sub-rule (1) disputes the suppliers estimated cost of alteration of the overhead line or even the responsibility to pay such cost the dispute may be referred to the Inspector by either of the parties whereupon the same shall be decided by the Inspector.

(3) No work upon such building, structure, flood bank, road and addition or alternation thereto shall be commenced or continued until the Inspector has certified that the provisions of rule 77, 79 or 80 are not likely to be contravened either during or after the aforesaid construction.

Provided that the Inspector may, if he is satisfied that the overhead line has been so guarded as to secure the protection of persons or property from injury, or risk of injury, permit the work to be executed prior to the alteration of the overhead line or in the case of temporary addition or alteration, without alteration of the overhead line.

(4) On receipt of the deposit, the supplier shall after the overhead line within one month of the date of deposit or within such longer period as the Inspector may allow and ensure that it shall not contravene the provisions of rule 77, 79 or 80 either during or after such construction.

(5) In the absence of an agreement to the contrary between the parties concerned, the cost of such alteration of the overhead line laid down shall be estimated on the following basis, namely: -

(a) The cost of additional material used on the alteration giving due credit for the depreciated cost of the material which would be available from the existing line;

(b) The wages of Labour employed in affecting the alteration;



(c) Supervision charges to the extent of 15 per cent of the wages mentioned in clause (b); and

(d) Any charges incurred by the supplier in complying with the provisions of section 16 of the Act in respect of such alterations.

(6) Where the estimated cost of the alteration of the overhead line is not deposited the supplier shall be considered as an aggrieved party for the purpose of this rule.”

(Emphasis added)

15. A bare reading of the above Rule 82 of the Electricity Rules shows that it is clearly stipulated therein that prior to undertaking any construction under a high voltage wire which is already installed, necessary notice has to be given to the supplier which, in the present case, is the defendant herein. Upon receipt of notice, the suppliers/defendant would verify/issue certificate that Rules 77, 79 or 80 of the Rules are complied with before granting permission to commence construction. Such permissions are necessary to ensure safety of the property and protection of the persons intending to raise the construction. It is admitted case on record that the plaintiff did not issue any such notice nor take any such permission as is mandated under the Electricity Rules. It is my view, that in this situation, as negligence is also on part of the plaintiff side, appellant cannot seek enhancement of compensation.

16. It is further stipulated that for removal of the high voltage wires from residential locality, payment has to be made by the residents



and that the defendants shall not be liable for any constructions raised after installation of such wires. Admittedly, this was also not done by the plaintiff side. There can be no manner of any doubt about the fact that this Court has utmost sympathy with the appellant. However, it is also to be appreciated that, due care and caution was required to have been exercised by the appellant and his family. Even if construction was raised after taking permission from the Municipal Corporation concerned, appellant could not have been permitted to fly kites on the rooftop in the proximity of the high voltage wires. Thus, the appellant has been permitted by his family to expose himself to danger of electrocution. It would, therefore, appear that there is negligence on the part of the plaintiff side as well. It is my view that it is about time that entire blame and burden cannot be cast upon the State Authorities; and citizens themselves are also called upon to be alert and vigilant in regard to their duties. It cannot be that we as citizens continue to be foolhardy and then expect the State to bear the burden of our foolishness. In view of the above, no ground is made out for enhancement of compensation.

17. Reference is made to a judgment passed by Andhra Pradesh High Court in **Saladi Veera Veni v. A.P. Eastern Power Distribution Corporation Ltd., Visakhapatnam (Andhra Pradesh): Law Finder Doc Id # 513023**; wherein it is held as under:-

“Constitution of India, 1950 Article 226 Compensation - Death due to electrocution -Actions of tort and negligence were required to be established initially by the claimants, that mere fact that wire of electric transmission line had snapped



and deceased had come into contact with it and died by itself was not sufficient for awarding compensation Court was required to examine whether the wire had snapped as a result of any negligence on the part of the deceased, as a result of which the deceased had come in contact with the wire Whether the death has occurred on account of negligence of the respondents or not, the dependants of the victim are entitled for ex gratia.”

18. Furthermore, it has been rightly pointed out by learned counsel for the respondents that concerned Municipal Corporation which had granted permission to grandfather of the appellant to raise construction, has not been impleaded as a party. There is even nothing on record to indicate that any such similar incident as alleged by the plaintiff has taken place in October 1996 when grandmother of the appellant had allegedly got entangled in the said electricity wires and got 55% burns on her body. There is nothing brought on record as to how, when, and in what manner was such information conveyed to the Department regarding the alleged incident. If anything, it would be expected that lessons would be learnt from past mistakes.

19. Lastly, no error can be found in the reasoning of the learned First Appellate Court in reducing the compensation as the learned First Appellate Court has computed the compensation payable to the appellant in terms of law laid down by the Hon'ble Supreme Court as per which Rs.2,000/- is to be awarded for every percent of disability.



20. In view of the above, present Regular Second Appeal stands **dismissed.**

21. Pending applications, if any, stand disposed of.

30.03.2026

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No