

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

APPEAL SUIT NO: 70 OF 2006

Appeal under Section 96 of C.P.C against the Judgment and Decree dated 26/6/2003 in OS No. 86 of 1997 on the file of the Court of the Senior Civil Judge, Miryalaguda Nalgonda District.

Between:

The Andhra Pradesh State Electricity Board (Now APCPDCL), rep. by it's;

1. Divisional Electrical Engineer, Reddy colony Miryalaguda.
2. Assistant Divisional Engineer, V.S.N. Reddy Complex, Sagar Road Miryalaguda.

...APPELLANTS/DEFENDANTS

AND

1. N. Shekar, (died per LRs 2 to 4)
2. Nunna Shanthi, W/o. Late Nunna Shekar, Aged 52 years, R/o. H.No.852/A, 2nd Floor, Prathima Building, Road No.7, Bhagatsingh Nagar, KPHB, Hyderabad-500085.
3. Nunna Srikanth, S/o. Late Nunna Shekar, Aged 34 years, R/o. H.No.852/A, 2nd Floor, Prathima Building, Road No.7, Bhagatsingh Nagar, KPHB, Hyderabad-500085.
4. Paladugu Mounika, W/o. Srinivas, Aged 32 years, R/o. Door No. A-39, Dwarakamai Nagar, Midhani Bus Stop Lane, BDL, Kanchanbagh, Hyderabad-500058.

...Respondent Nos.2 to 4

(Respondent Nos.2 to 4 are brought on record as LRs of Deceased Sole Respondent as per Court Order dated 13.12.2022, vide IA No.3 of 2022 in AS No.70 of 2006.)

Counsel for the Appellants: SRI R VINOD REDDY

Counsel for the Respondents: P RAVINDER REDDY

The Court made the following: JUDGMENT

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

APPEAL SUIT No.70 OF 2006

JUDGMENT:

Aggrieved by the judgment and decree dated 26.06.2003 in O.S.No.86 of 1997, on the file of the learned Senior Civil Judge at Miryalaguda, the present appeal is filed by defendants-appellants. By the impugned order the trial Court has decreed the suit by awarding compensation of Rs.2,00,000/- to be paid by the defendants.

2. The appellants herein are the defendant Nos.1 and 2 i.e., the Divisional Electricity Engineer, Reddy Colony, Miryalaguda and the Assistant Divisional Engineer, V.S.N.Reddy Complex, Sagar Road, Miryalaguda, Andhra Pradesh State Electricity Board (presently, Telangana State Southern Power Distribution Company Limited) and the respondent No.1 is the plaintiff in the suit. However, the respondent No.1, husband of respondent No.2, father of respondent Nos.3 & 4 (hereinafter referred as 'the deceased') died during the pendency of the trial. Further, the respondent Nos. 2 to 4 filed I.A.No.3 of 2022 to implead them as Legal Representatives of the deceased, who is the sole respondent, in O.S.No.86 of 1997. For the sake of convenience, the parties hereinafter are referred to as they are arrayed in the suit.

3. The case of the plaintiff/deceased is that on 21.01.1996 at about 09:00 p.m., the electrical transformer which belongs to defendants situated at Bangarigadda locality, Miryalaguda town, was bursted and the oil of the said electric transformer came out with force and spread over near and around the transformer including the M/s.Ganesh Dall Mill wherein he was working as mill driver. As a result, the plaintiff received several burn injuries all over the body. It is stated that the above burst of the said electrical transformer took place when Assistant Linemen switched on the said electric transformer. Based on the complaint, the S.I. of police, Miryalaguda, registered a case in Crime No.15 of 1996. According to the plaintiff/deceased, he was hale and healthy, earning Rs.2,000/- per month as mill driver in M/s.Ganesh Dall Mill and used to contribute his entire earnings for the welfare of the family. Due to the accident, he suffered permanent disability and lost his earning capacity. Hence, he claimed compensation of Rs.2,00,000/- from defendant Nos.1 and 2.

4. The defendant Nos.1 and 2 filed written statement denying the averments of the plaintiff/deceased. It is their case that the incident had happened only due to the sheer negligence on the part of the plaintiff/deceased as he went near the electrical transformer without noticing the warning given by the employees, who were attending the repair works of the said electrical transformer. It is

their case that when the said electrical transformer spill oil due to the burst, the plaintiff sustained severe burn injuries as he went near the said transformer. He further contended that there is no negligence on the part of the employees of defendants and prayed to dismiss the suit.

5. Based on the above pleadings, the trial Court has framed the following issues:

1. *Whether the plaintiff is entitled for the damages as prayed for?*
2. *To what relief?*

6. The plaintiff, to support his case, has examined PWs.1 to 3 and marked Exs.A1 to A78. Whereas the defendants have examined its employee namely, Thallapalli Lingaiah, the then ADE, APSEB as DW.1 but no documentary evidence was adduced.

7. The trial Court on appreciating the evidence on record, both oral and documentary, has decreed the suit by awarding compensation of Rs.2,00,000/- to be paid by the defendants.

8. Heard learned Standing Counsel for the appellants and learned counsel for the respondents. Perused the material available on record.

9. The learned Standing Counsel for the appellants/ defendants contended that there is no negligence on the part of defendants, Electricity Department. He further contended that the trial Court

has erroneously fastened liability against them without there being any independent evidence. He added that in fact, prior to repairing the said transformer, the department line men warned all the people nearby it including the plaintiff to go away from the place, but the plaintiff/deceased without paying attention to the warning, went near the said transformer, due to which, he received severe burn injuries. Hence, there is no negligence on the part of the appellants/defendants. Therefore, the appellants prayed to allow the appeal by setting aside the liability against them.

10. On the other hand, learned counsel for the respondents herein sought to sustain the impugned award of the trial Court contending that considering the manner of accident and the nature of injuries sustained by the plaintiff, the trial Court has awarded reasonable compensation and the same needs no interference by this Court.

11. A perusal of material evidence available on record reveals that the plaintiff/deceased in support of his pleadings, marked Ex.A.1 office copy of legal notice dated 08.01.1997; Exs.A.2 & A.3 served postal acknowledgment cards; Ex.A.4 reply notice to Ex.A.1 dated 27.01.1997; Ex.A.5 postal cover; Exs.A.6 to A.77 medical bills of plaintiff/deceased and Ex.A.78 disability certificate issued by PW.3. PW.1 in his chief examination deposed that on 21.01.1996 while he was working as mill driver in M/s.Ganesh Dall Mill, the

said transformer was burst and the oil is spill over him as the said transformer was situated abutting the M/s.Ganesh Dall Mill, due to which, he sustained burn injuries. Though the defendants have not disputed that the plaintiff/deceased sustained injuries due to sudden spill of oil from the said busted transformer, the defendants, by way of examining its employee as D.W.1, blamed the negligence for the incident against the plaintiff/deceased. Considering the evidence brought on record, the trial Court held that both the defendants are equally responsible for the injuries to the plaintiff/deceased and therefore, both of them are liable to pay the compensation. Therefore, I do not find any reason to interfere with the findings of the learned Senior Civil Judge.

12. As regards the quantum of compensation, the plaintiff/deceased himself examined as P.W.1 and deposed that he used to earn Rs.2,000/- per month as mill driver in M/s.Ganesh Dall Mill. He further deposed that due to the accident, he suffered permanent disability and facing difficulties in attending his daily routine works. In this regard, plaintiff/deceased has also examined co-worker in the M/s.Ganesh Dall Mill as P.W.2, who deposed that the plaintiff used to earn Rs.2,000/- per month as mill driver in M/s.Ganesh Dall Mill and due to the injuries sustained by plaintiff/deceased in the accident, the management of the Mill asked the plaintiff/deceased to leave the job. P.W.3, doctor-medical

officer, deposed that he examined the plaintiff/deceased on 24.02.2003 and issued Ex.A.78, disability certificate by assessing the percentage of disability at 35% as the plaintiff/deceased suffered post burns, contracture of left shoulder and dorsum of chest with restricted moments of left shoulder cervical spine. Though P.Ws.1 to 3 were cross-examined at length in this regard, nothing was elicited to disbelieve their evidence. Hence, considering the oral and documentary evidence, the trial Court has reasonably awarded compensation of Rs.2,00,000/- in lumpsum which was directed to be paid by both the defendants. The said findings of the trial Court are on appreciation of the evidence in proper perspective which needs no interference by this Court and the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed confirming the impugned judgment passed by the learned Senior Civil Judge, Miryalaguda, in O.S.No.86 of 1997 dated 26.06.2003. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

SD/- T. SRINIVAS
DEPUTY REGISTRAR



SECTION OFFICER

//TRUE COPY//

To,

1. The Senior Civil Judge, Miryalaguda, Nalgonda District (with records)
2. One CC to SRI. R VINOD REDDY, Advocate [OPUC].
3. Two CD Copies



HIGH COURT

DATED: 08/08/2023

JUDGMENT



AS.No.70 of 2006

DISMISSING THE AS WITHOUT COSTS

⑥ *VLV*
20/2/24