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2026:GUJHC:56316-DB

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/FIRST APPEAL NO. 2043 of 2011**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE ILESH J. VORA**

**and**

**HONOURABLE MR. JUSTICE R. T. VACHHANI**

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| Approved for Reporting | Yes | No |
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CHUNILAL GOVANBHAI PATEL

Versus

NARSIBHAI N PATEL & ORS.

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Appearance:
MS PJ DAVAWALA(240) for the Appellant(s) No. 1
MR TANMAY B KARIA(6833) for the Defendant(s) No. 3,4
MR ZUBIN F BHARDA(159) for the Defendant(s) No. 1.1,1.2,2

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**

and

**HONOURABLE MR. JUSTICE R. T. VACHHANI**

**Date : 07/09/2026**

**ORAL JUDGMENT**

**(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)**

1. Being aggrieved and dissatisfied with the judgment and decree dated 30.09.2006 passed by the Learned Civil Court, Navsari (for the sake of brevity and convenience, hereinafter referred to as “Learned Civil Court”) in Special Civil Suit No.44 of 2002 (Old Special Civil Suit No.282 of 2000), whereby the appellant-defendant came to be directed to pay a sum of Rs.3,70,000/- towards compensation together with simple interest at the rate of 7.5% simple interest per annum from the date of the suit. The appellant – Org. defendant No.1 (for the sake of brevity and convenience, hereinafter referred to as “appellant”), has preferred the captioned appeal under Section 96 of the Code of Civil Procedure, 1908 (“the Code” for short).



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2. The brief facts leading to the filing of the present appeal are as under:

2.1. The original plaintiffs – defendants herein, being the heirs of deceased Narsibhai N. Patel, instituted the suit claiming compensation of Rs.45,90,000/- on account of the death of Hitesh, the son of the original plaintiff, aged about 23-24 years. The said Hitesh was employed with the Surat Municipality drawing a monthly salary of Rs.3,000/- and also used to assist in agricultural operations. The appellant, a resident of the same village, had fixed the marriage of his daughter Madhuben on 20.05.2000 and had invited the family of the deceased. Pursuant to the invitation, Hitesh went to the residence of the appellant and, while rendering assistance in the marriage-related work as directed, came into contact with a live electric wire and died on the spot due to electrocution.

2.2. The original plaintiffs alleged that the appellant, with the intention of committing theft of electricity, had illegally drawn and left exposed live electric wires in a negligent and careless manner, thereby creating a dangerous situation which resulted in the fatal accident. It was further alleged that defendants Nos.2 and 3, the electricity distribution companies, failed in their statutory duty to prevent electricity theft and to ensure safety of the supply lines. The original plaintiffs claimed compensation under various heads including loss of future earnings for 35 years, loss of agricultural assistance, retirement benefits, mental agony quantified at Rs.5,00,000/- and funeral expenses of Rs.5,000/-. The appellant initially remained absent and suit proceeded against ex-parte; later he filed a written statement denying the invitation, the alleged theft



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of electricity, any negligence on his part and asserting that the death occurred due to contact with a wire taken from the field of one Mansingbhai. Defendants Nos.2 and 3 denied any liability, contending that none of their supply lines had broken and that the incident was solely attributable to the private and illegal act of the appellant.

2.3. The suit came to be registered as Special Civil Suit No.282 of 2000 and was later renumbered as Special Civil Suit No.44 of 2002. Upon conclusion of the trial, the Learned Civil Court partly decreed the suit.

2.4. By the impugned judgment and decree, the learned Civil Court held the original plaintiffs entitled to recover a total sum of Rs.3,70,000/- from the appellant alone with simple interest at the rate of 7.5% per annum from the date of the suit till realisation. The said amount comprises Rs.2,70,000/- towards loss of dependency (assessed on the basis of notional monthly income of Rs.2,000/-, after deducting Rs.500/- towards personal expenses, and applying the multiplier of 15) and Rs.1,00,000/- towards mental agony and shock suffered by the family members. The appellant was directed to deposit the amount within 30 days. The amount was ordered to be apportioned as 25% to plaintiff No.1.1, 25% to plaintiff No.1.2 and 50% to plaintiff No.2, with 70% of each share to be kept in fixed deposit for five years in a nationalised bank of the original plaintiffs' choice (without any right to raise loan or create encumbrance thereon, but with liberty to receive periodical interest) and the remaining 30% to be paid by account-payee cheque.

3. Submissions on behalf of Learned Advocate for the appellant:



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3.1. Learned Advocate for the appellant has submitted that the impugned judgment and decree passed by the Learned Civil Court in Special Civil Suit No. 44 of 2002 (Old Special Civil Suit No. 282 of 2000) is illegal, perverse and contrary to the settled principles of the law of torts as well as the evidence on record. It is submitted that the Learned Civil Court has committed a grave error in partly decreeing the suit and fastening sole liability of Rs. 3,70,000/- with interest upon the appellant.

3.2. It is further submitted that the Learned Civil Court has attached undue weight to the examination-in-chief of the original plaintiffs' witnesses while completely overlooking the material admissions elicited in their cross-examination which favour the appellant. Conversely, the deposition of the appellant has been brushed aside and disproportionate importance has been given to stray portions of his cross-examination. The entire finding of negligence, it is submitted, rests on pure hearsay evidence which is wholly inadmissible under the Indian Evidence Act. The original plaintiffs having approached the Court with positive assertions of illegal drawing of live wires and negligence, the burden of proving the same lies entirely upon them and was never discharged which cant be shifted on the appellant, which again is rebuttable which is not the case on hand.

3.3. It is further submitted that the authorities cited on behalf of the appellant were not considered at all. The panchnama relates to a field situated 700–800 metres away from the appellant's residence, yet the Learned Civil Court proceeded solely on assumption as if the incident



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had occurred at the appellant's house. Oral evidence of the original plaintiffs themselves establishes that a cyclone had struck only two days earlier and several electric wires were lying broken in the fields; this crucial circumstance has been ignored. The appellant has held an authorised electric connection for years and there was neither necessity nor occasion for him to draw any unauthorised connection for the marriage. The story of invitation and assistance is baseless and stands contradicted.

3.4. It is also submitted that in the criminal proceedings arising from the same incident the appellant was found innocent under Sections 39 and 43 of the Indian Electricity Act; this fact, though proceeded before the Court, however the same was not adverted to. It is submitted that defendants Nos. 1.1 and 1.2, being the brothers of the deceased, are not entitled to any share in the compensation. Consequently, the quantum, apportionment and directions regarding fixed deposits are also unsustainable.

3.5. In support of his arguments, Learned Advocate for the appellant has placed reliance upon the decision rendered by the Hon'ble Apex Court in the case of ***H.S.E.B. and others v. Ram Nath and others, (2004) 5 SCC 793***.

3.6. On these premises, it is prayed that the impugned judgment and decree be quashed and set aside in their entirety, the appeal be allowed and the suit be dismissed.


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4. Submissions on behalf of Defendants Nos. 3 and 4:

4.1. Learned Advocate for Defendants Nos. 3 and 4 has submitted that the said Defendants, being the electricity distribution companies, support the findings recorded by the Learned Civil Court in Special Civil Suit No. 44 of 2002 to the extent that no liability has been fastened upon them.

4.2. It is submitted that the Learned Civil Court has correctly held on Issues 1 to 4 that the unauthorised temporary connection was drawn by the appellant alone on the day of the marriage (20.05.2000) by fixing a hook on the GEB line near Mansingbhai's well/DP and extending a PVC wire towards his own premises. The Inspector's report (Exh.-121/122), the panchnama and the recovery of the burnt wire and hook the very next day establish that the act was private, clandestine and of one-day duration only. No application for temporary supply was ever made by the appellant. In such circumstances, the companies had neither knowledge nor opportunity to detect or prevent the temporary theft.

4.3. It is further submitted that the ordinary statutory duty to maintain supply lines and to check for unauthorised connections cannot be stretched to cover a purely private and momentary act committed by a consumer on a single day. Once the Learned Civil Court found that the appellant alone created the dangerous situation, the companies stood rightly exonerated. The decree under challenge does not impose any liability upon Defendants Nos. 3 and 4 and that part of the judgment does not call for interference.



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4.4. It is therefore prayed that the findings absolving Defendants Nos. 3 and 4 be confirmed and the appeal, so far as it may seek to shift any liability upon these Defendants, be dismissed.

5. Submissions on behalf of on behalf of Defendants Nos. 1.1, 1.2 and 2:

5.1. Learned Advocate for Defendants Nos. 1.1, 1.2 and 2 has submitted that the said Defendants adopt the submissions advanced on behalf of Defendants Nos. 3 and 4 insofar as they affirm the exclusive liability of the appellant and the absence of any negligence on the part of the electricity companies. In addition, the following submissions are urged in support of the decree.

5.2. It is submitted that the Learned Civil Court has rightly decided Issues 1 to 3 in favour of the original plaintiffs. The invitation card (Exh.-66) establishes that the appellant invited the family for the marriage of his daughter. Dilipbhai Narsinhbhai (Exh.-65) has deposed that Hitesh went to the appellant’s residence and came into contact with the live wire drawn by the appellant through an unauthorised hook. The panchnama, recovery of wire and hook, and the Inspector’s report (Exh.-121/122) corroborate that the temporary connection was made for the marriage and that the current passed through the galvanised wire of the mandap which Hitesh was holding. The admissions elicited in cross-examination only strengthen, and do not dilute, the case of unauthorised drawing of power by the appellant.


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5.3. It is further submitted that the plea of hearsay is misconceived. The factum of death by electrocution is undisputed; the cause and the person responsible stand proved by the contemporaneous documents and the surrounding circumstances. The cyclone of two days earlier and the existence of an authorised connection do not exonerate the appellant from the specific temporary theft committed by him on the day of the incident. The outcome of the criminal case is neither binding nor relevant in the present civil proceeding founded on negligence.

5.4. It is also submitted that on quantum, the Learned Civil Court has adopted a just and conservative approach. In the absence of proof of municipal employment, a notional income of Rs. 2,000/- per month for a young graduate, personal deduction of Rs. 500/- and a multiplier of 15 years have been correctly applied, yielding Rs. 2,70,000/-. The further sum of Rs. 1,00,000/- towards mental agony to the mother is moderate and justified. The brothers, being legal heirs, have been rightly awarded a share. The directions regarding deposit and apportionment are proper and protective of the interests of the claimants.

5.5. The decree of Rs. 3,70,000/- with interest at 7.5 % per annum is fully supported by the evidence and the principles of the law of torts. It is therefore prayed that the appeal be dismissed with costs and the judgment and decree of the Learned Civil Court be confirmed in its entirety.

6. Having heard the learned counsel appearing for the respective parties, the following issues require consideration as emerge from the material placed on record as also the conclusions arrived at by the learned



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Civil Court.

7. While examining the deposition of Dilipkumar, Electrical Inspector, Surat, recorded at Exh.118, it is noticed that the said witness has merely identified the signatures of the then Electrical Inspector Shri J.N. Patel appearing on the report and the site sketch. The witness has candidly admitted that he himself never visited the place of occurrence, that he has no personal knowledge whatsoever of the incident, and that all the papers collected by Shri J.N. Patel during the course of inquiry have not been produced on the record of the present suit. The witness has further stated that information regarding the fatal accident was received from the Gujarat Electricity Board ("the Board" for short) itself and that upon perusal of the report prepared by Shri J.N. Patel, no liability is attributable to the Board.

7.1. The deposition of this witness, being purely formal in character and bereft of any personal knowledge, does not advance the case of the original plaintiffs in any manner so as to establish the specific involvement of the appellant in the alleged act of unauthorised hooking of the high voltage line. The learned Civil Court appears to have placed reliance upon the report prepared by the Electrical Inspector without noticing that the very witness through whom the said report was sought to be proved has admitted non-production of the entire material collected during the inquiry and has further expressed that the report does not fasten any liability upon the Board. In the absence of the author of the report having been examined and in the light of the clear admission that the complete set of papers was never placed on record, the contents of the


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report cannot be pressed into service for drawing an inference of negligence against the appellant on the basis of assumptions and presumptions.

8. The evidence of Exh.118, therefore, far from establishing any nexus between the appellant and the alleged temporary connection, rather indicates that even the official inquiry conducted by the Electrical Inspector did not culminate in fastening responsibility upon any particular individual including the appellant, and the same cannot be read as clinching material for holding the appellant solely liable for the unfortunate incident.

9. Upon careful perusal of the report of the Electrical Inspector prepared by Shri J.N. Patel and brought on record at Exh.121, it is noticed that the inquiry was conducted on 02.06.2000 pursuant to information received through telegram dated 25.05.2000. The report specifically records that the fatal accident did not occur on account of any defect or shortcoming in the line or system of the Board, but took place in a private field belonging to Chunilal Govanbhai Patel on account of electricity having been drawn by some unknown person in an unauthorised manner.

9.1. The report further discloses that during the course of inspection carried out by the Electrical Inspector, no unauthorised wiring was found existing at the place of occurrence for the reason that the same had already been removed. The report proceeds to narrate, on the basis of the earlier police panchnama, that to the west of the field of Chunilal Govanbhai Patel there exists a well belonging to Mansingbhai


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Ranchhodbhai having a distribution point and an electric motor, and that some unknown person is stated to have prepared a hook of aluminium wire on the LT line of the Board near the said well, connected a yellow coloured PVC wire of approximately 96 feet length and extended the same up to the house of Chunilal for the purpose of the marriage mandap. The report notes that the said PVC wire was found in a burnt and broken condition.

9.2. Significantly, throughout the report the act of putting the hook and drawing the temporary connection has been attributed only to some unknown person, and nowhere has the appellant Chunilal Govanbhai Patel been named as the person who committed the said act. The report further records that on account of the PVC wire having been made to pass over the galvanised iron wires of the mandap, and the ground being wet due to recent rainfall, when the deceased Hiteshbhai came in contact with the galvanised wire of the mandap, electric current passed through the same resulting in the fatal shock.

10. Thus, even the contemporaneous official inquiry conducted by the Electrical Inspector under the Indian Electricity Act does not contain any specific finding pinning the responsibility of putting the unauthorised hook upon the appellant. The learned Civil Court appears to have proceeded on the assumption that since the mandap was erected in the field of the appellant and the marriage was being solemnised at appellant’s residence, the act of unauthorised drawing of electricity must necessarily be attributed to him, without noticing that the official report itself speaks only of an unknown person and further records that the


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temporary connection had already been removed by the time the Inspector visited the site. In the absence of any specific accusation or finding in Exh.121 naming the appellant as the person responsible for the illegal connection, the said report cannot be pressed into service for fastening exclusive liability upon the appellant on the basis of mere proximity of the place of occurrence or the factum of the marriage ceremony.

11. Upon further examination of the detailed inquiry report filled in by the Electrical Inspector Shri J.N. Patel himself and exhibited at Exh.122, it is seen that the said report has been prepared in the prescribed form on 02.06.2000. The report records the voltage involved as 230 Volt LT and specifically states under the relevant columns that the accident occurred on account of an unauthorised electrical connection and that after the accident the said unauthorised connection was removed.

12. In the column meant for recording the person responsible, the Inspector has not named any individual and has indicated that specific responsibility cannot be fastened upon any particular person. The detailed opinion recorded in paragraph 11 of Exh.122 is in identical terms with the narrative report at Exh.121. It reiterates that the field belongs to Chunilal Govanbhai Patel, that a mandap of galvanised wires had been erected therein, and that the deceased Hiteshbhai came in contact with the galvanised wire of the said mandap.

13. The cause is again attributed solely to the act of some unknown person who is stated to have prepared an aluminium hook on the nearby


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LT line meant for agricultural purpose, connected a PVC wire and extended the supply in an unauthorised manner up to the residence of Chunilal Govanbhai Patel. The report further notes that the bare portion of the said PVC wire came into contact with the galvanised wires of the mandap, thereby making the entire structure live, and that when the deceased held the galvanised wire he received the fatal electric shock.

14. Thus, even in the formal structured report prepared by the Electrical Inspector under the statutory rules, the act of putting the hook and drawing the temporary connection continues to be attributed only to an unknown person. Nowhere in Exh.122 has the appellant been identified as the person who committed the unauthorised act. The consistent use of the expression “by some unknown person” in both Exh.121 and Exh.122 assumes significance, more particularly when the temporary connection itself was not found existing at the time of inspection and had already been removed.

15. The learned Civil Court, while fastening exclusive liability upon the appellant, appears to have overlooked this vital feature emerging from the official reports of the Electrical Inspectorate. The mere fact that the mandap stood in the field of the appellant and that the marriage ceremony was being held at his residence cannot, by itself, convert the act attributed by the official inquiry to an unknown person into an act committed by the appellant, in the absence of any specific finding or material in the contemporaneous reports naming him as the author of the unauthorised connection.


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16. The site sketch prepared by the Electrical Inspector and exhibited at Exh.123 depicts the topography of the place of occurrence. On the western side the overhead LT line of the Board is shown running on poles. Adjacent thereto is marked the well belonging to Mansingbhai Ranchhodbhai together with the distribution point. From the direction of the said well, lines are shown extending eastwards towards the residential premises of Chunilal Govanbhai Patel. In the intervening open area the place of accident is indicated and the figure of the deceased Hiteshbhai is shown standing near the galvanised wire structure of the mandap.

16.1. A plain reading of the sketch reveals that the source from which the temporary connection is alleged to have been drawn is situated near the well of Mansingbhai and not immediately adjoining the residential house of the appellant. The sketch further demonstrates the distance between the Board's line / distribution point and the mandap area where the deceased came in contact with the live galvanised wire.

16.2. Significantly, the sketch does not contain any endorsement or marking attributing the act of putting the aluminium hook or extending the PVC wire to the appellant. It merely records the physical location of the well, the overhead line, the house of the appellant and the spot where the deceased fell. When this sketch is read in conjunction with the reports at Exh.121 and Exh.122, which consistently attribute the unauthorised connection to some unknown person, the absence of any specific indication in the contemporaneous site plan naming the appellant as the author of the illegal act becomes all the more glaring.



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17. The learned Civil Court appears to have proceeded on the premise that since the mandap stood in the field of the appellant the temporary connection must have been drawn by him, without appreciating that the official sketch itself places the origin of the alleged hook near the well of a third party and does not fasten the act upon the appellant by any direct marking or notation. In the absence of such specific material emerging from the site plan prepared by the Electrical Inspector, the sketch cannot be pressed into service for drawing an inference of exclusive negligence against the appellant.

18. The appellant Chunilal Govanbhai Patel has stepped into the witness box and his deposition has been recorded at Exh.130. In his examination-in-chief the appellant has stated that on the day of the incident the marriage of his daughter was being solemnised and that in accordance with the prevailing village custom the family of the original plaintiffs, being related, had also been invited. He has specifically deposed that he remained present at his residence throughout the day in connection with the marriage ceremonies and that the electricity required for the lights was drawn from his own authorised domestic connection. He has categorically denied having drawn any temporary connection from any other source.

18.1. The appellant has further stated that he had not called the deceased for any work connected with the marriage and that the deceased had been invited only for the meal. He has pointed out that the distance between his residential house and the agricultural field is approximately 300 metres and that the dead body of Hiteshbhai was found near the field of



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Mansingbhai. He has produced the certified copy of the judgment of the criminal court at Vansda whereby he was acquitted of the charges levelled against him under the Indian Electricity Act, which has been marked as Exh.131.

18.2. In cross-examination the appellant has admitted the factum of invitation and the erection of a mandap with arrangement for lights and mike. He has also admitted that the house where the marriage was held is situated within his field and that a galvanised wire structure existed for the cultivation of parval. However, he has consistently denied having drawn any unauthorised wire from the electric pole or from the line near the well of Mansingbhai. He has further denied that the death of Hiteshbhai occurred on account of any negligence or carelessness on his part.

18.3. The deposition of the appellant, when read as a whole, discloses a clear and consistent stand that the electricity for the marriage was obtained from his own authorised connection and that he had no knowledge of any unauthorised temporary arrangement. The fact that the criminal court has already recorded a finding of innocence in his favour, though not binding on this Court, nevertheless assumes relevance when the civil liability is sought to be fastened solely on the basis of assumptions drawn from the place of occurrence and the factum of the marriage ceremony. In the absence of any direct ocular evidence or contemporaneous document specifically naming the appellant as the person who put the aluminium hook, the mere denial on oath by the appellant coupled with his acquittal in the criminal proceedings cannot be lightly brushed aside. The learned Civil Court appears to have discarded


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the entire deposition of the appellant without assigning any cogent reason and has proceeded to fasten liability upon him on the basis of conjectures rather than on the strength of positive evidence establishing his exclusive involvement in the act of unauthorised drawing of electricity.

19. Admittedly, the deceased died due to electrocution on account of the injuries sustained by coming into contact with a live high voltage wire at the place owned and possessed by the appellant herein (original defendant No.1). The deceased appears to have come into contact with the live high voltage wire hooked with the main line and succumbed to the injuries.

20. The point for determination is whether, for the aforesaid act or incident, who can be saddled with the responsibility.

21. As per the case of the original plaintiffs, the entire responsibility for the incident has been saddled upon all the defendants contending that it was due to the invitations and while honouring the invitations of the appellant that the son of the original plaintiff attended the same where this unfortunate incident is alleged to have taken place. Though as per the averments so also the ocular evidence while adhering to the stance that the incident has taken place due to the negligence rather the theft of electricity caused by the appellant herein by hanging a hook over the high voltage wire, however, it is also averred that even the electricity company, Dakshin Gujarat Vij Company Ltd. (original defendants Nos.2 and 3), is negligent who have not taken care as to such incidents and thereby the claim is sought against the defendants.


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22. Therefore, the submissions advanced by the learned Advocate for the appellant that simply because the incident in question has taken place nearby the vicinity or the place owned and possessed by the appellant cannot be a ground to fasten the liability of the appellant with regard to the incident in question which remotely has no nexus with the appellant herein.

23. While considering the conclusion arrived at by the learned Judge of the trial court, the learned counsel appearing for Dakshin Gujarat Vij Company Ltd. has submitted that they have been rightly exonerated as such there was no fault and negligence on the part of the officers concerned of the Board more so there appears immense material to connect the incident in question to the appellant as the appellant seems to have made efforts to steal the electricity by illegal means which also transpires from the panchnama and report prepared by the office bearers of the Board on the next day and even the deposition of the original plaintiff also supports the same and therefore submitted that in the absence of any such indications involving the Dakshin Gujarat Vij Company Ltd. with the questioned incident no such liability can be fastened as concluded by the learned Judge of the Civil Court.

24. In view of the aforesaid, the original plaintiffs opposed the submissions made on behalf of the appellant and supported the findings with particular regard to the submissions of Dakshin Gujarat Vij Company Ltd. That the deceased was serving with the Municipal Corporation and also extending helping hands in agricultural work.


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However, the learned Judge of the trial court awarded a sum towards compensation for loss of dependency holding that the income of the deceased could not have been proved and therefore while considering the notional income to the extent of Rs.2,000/- under the head of future prospects it has been considered. It is submitted that even in the absence of the proof the income of the deceased ought to have been assessed on the basis of the minimum wages.

25. At this juncture, it would be apt to note the proposition laid down in ***Karnataka Power Transmission Corporation Ltd. v. Rekha and Others, 2026 LiveLaw (SC) 799***, arising out of Karnataka Power Transmission, rendered by the Hon'ble Supreme Court (Justice Sanjay Karol and Justice Nongmeikapam Kotiswar Singh), wherein the issue with regard to the law of torts pertaining to cases falling under electrocution has been considered, and the principles of liability have been succinctly discussed therein, while bifurcating strict liability versus absolute liability. In cases of electrocution involving electricity transmission and distribution entities, the standard of liability applicable to such Board is strict liability, as per the rule laid down in ***Rylands v. Fletcher***, and no such absolute liability can be saddled on the Board. Thus, while considering the activities of the Board, which otherwise is inherently dangerous and engaged in distributing electrical energy, the same can be said to fall under the principle of strict liability, irrespective of the absence of negligence or fault, subject to the recognised legal exceptions which otherwise may attract Act of God, Act of Stranger, default or negligence of the plaintiff, etc.

26. Though while considering the aforesaid submissions it is admitted



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that the claim as to the deceased was serving with the Municipal Corporation has been raised before the learned Civil Court however nothing sort of any material has been placed on record and therefore the learned Judge seems to have rightly concluded while considering the notional monthly income of Rs.2,000/-, after deducting Rs.500/- towards personal expenses, and applying the multiplier of 15 and Rs.1,00,000/- towards mental agony as prevailing at the relevant time as the incident seems to have taken place in the year 2000. However, while assessing the compensation in case of electrocution claims raised therein, the provisions of the Motor Vehicles Act and the multiplier formula cannot be strictly applied *mutatis mutandis* to determine the compensation. However, in the absence of any prescribed calculation method under the provisions of the Electricity Act, 2003, the compensation is to be determined on the basis of the principle of just, fair and reasonable compensation, based on proven income and the relevant facts placed for consideration.

27. Thus, the way in which the incident has taken place as described in the foregoing paragraph the deceased has come into contact with the high voltage wire on account of which he succumbed to the injuries. The reasoning assigned by the learned Judge solely rests on the assumptions and presumptions that since the incident has taken place due to the events organized by the appellant. However, even while perusing the deposition of the original plaintiff as a material witness as well as other material witnesses they all seem to be hearsay as such no one has come forward rather to establish the factum of having witnessed the incident in question.



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28. It is an undisputed fact that the death of the deceased occurred due to electrocution but what is required to be considered is who can be saddled with the negligence. Apparently, the learned Judge appears to have stressed upon the deposition of the original plaintiff as well as the report prepared by the officers of the Board on the next date. Even on perusing the aforesaid reports nothing sort of any such material emerges to pinch any nexus of the appellant or the involvement of the appellant by putting a hook on the high voltage wire so as to divert the same for his own benefits.

29. Thus, the questions which require to be determined is whether Dakshin Gujarat Vij Company Ltd. was vigilant enough to establish the fact of the involvement of the appellant herein simply by citing a report without there being accusing any persons rather naming any persons including the appellant cannot be made a sole ground to impose a liability on the appellant and that too just to absolve from their own responsibility.

30. At this juncture it would be apt to discuss the applicability of the principle of “strict liability”. As per this principle the liability can arise even without a proof of negligence if the escape or the transmission of the dangerous substance such as electricity causes the harm.

31. In this regard, it is apt to refer to the judgment of High Court of Rajasthan in the case of ***Rajasthan State Electricity Board and Another v. Varda and Another, 2026 SCC OnLine Raj 4392***, the relevant paragraphs of which read as under:


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*"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 Supreme Court in the case of Parvati Devi v. Commissioner of Police, Delhi, (2000) 3 SCC 754 : 2000 SCC (Cri) 771:*

*"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 Supreme Court in Madhya Pradesh Electricity Board v. Shail Kumari, (2002) 2 SCC 162 : 2002 SCC (Cri) 315, 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*



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*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 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*



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> *the accidentcausing death of the deceased and Ganpat, and are consequently, liable to pay just and fair compensation to the respondents."*

32. While considering the proposition laid down in judgment of the Supreme Court in the case of ***M.P. Electricity Board v. Shail Kumari and others, (2002) 2 SCC 162***, the paragraph No.14 of which reads as under:

> *"14. The Privy Council has observed in Quebec Rly., Light, Heat and Power Co. Ltd. v. Vandry [1920 AC 662 : 89 LJPC 99 : 123 LT 1] that the company supplying electricity is liable for the damage without proof that they had been negligent. Even the defence that the cables were disrupted on account of a violent wind and high-tension current found its way through the low-tension cable into the premises of the respondents was held to be not a justifiable defence. Thus, merely because the illegal act could be attributed to a stranger is not enough to absolve the liability of the Board regarding the live wire lying on the road."*

33. Since the learned Judge of the Civil Court has saddled the liability on the appellant herein however as discussed in the foregoing paragraph nothing sort of any such material has been placed on record. On the contrary even the criminal prosecution initiated against the appellant herein resulted in the acquittal of the appellant. More so, the liability imposed on the appellant by the learned Civil Court solely rests on the deposition of the original plaintiff who has not witnessed the incident in question though the efforts also seem to have been made while pointing a finger against the Board as to the sheer negligence on their part to maintain the electricity line in its proper form. However, the learned Judge while relying on the reports prepared by the officers of the Board followed by the panchnama drawn and the recovery effected from the



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place of the incident nowhere the name of the appellant indicates nor the involvement of the appellant emerges from even the said report and therefore in the absence of specific and express report involving any person the same cannot be implicated solely on the ground of assumptions and presumptions.

34. We have also put a query to the learned counsel appearing for the original defendant No.1 to show from the reports as well as the panchnama drawn by the officers of the Board indicating the involvement of the appellant. However, he was not in a position to point out anything and therefore in view of the detailed discussion made in preceding paragraph and considering the principle of strict liability Dakshin Gujarat Vij Company Ltd. is duty bound and responsible for the occurrence in question.

35. In context to the arguments dealt with by the learned Judge as canvassed by the Board that it was not feasible rather possible for the officers of the Board even to verify and inspect scrutinize examine with regard to the temporary connection obtained by the appellant from the stranger is no ground to exonerate the Board from their responsibility even to take care and check in their routine duty. And therefore solely on the aforesaid basis without considering the principles of strict liability the exoneration of the Board from their responsibility for the occurrence in question does warrant interference particularly when the said contention does not seem to have been substantiated by any cogent material even the reliance placed by the officers of the Board on their own reports and panchnama speaks volume rather not implicating any strangers including



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the appellant herein and therefore by raising contentions without there being any substance cannot be a ground to shift the liability of the Board on the appellant herein.

36. Since the age of the deceased at the time of the accident was about 23-24 years and therefore calculating accordingly. Thus in view of the aforesaid the conclusion arrived at by the learned Judge requires to be interfered with qua the responsibility saddled on the appellant and therefore the appeal deserves to be allowed and Dakshin Gujarat Vij Company Ltd. is hereby held responsible for the occurrence in question and to pay and bear the just and fair compensation to the original plaintiffs.

37. Thus, while applying the law and proportion laid down in the aforesaid decided cases while equating the same to the facts of the case on hand, admittedly the incident has happened at the nearby place of the appellant. However, what is required to be considered and confined is the part of the negligence and as discussed herein above while keeping the principles of strict liability which squarely apply to the facts of the case on hand as the death of the deceased took place by electrocution on account of live high voltage wire lying idle and for this reason also Dakshin Gujarat Vij Company Ltd. are responsible for the occurrence of the accident causing the death of the deceased and therefore are consequently liable to pay just and fair compensation to the original plaintiffs.

38. Reverting back to the issue with regard to settling the


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responsibility of the Board, the quantum of the responsibility to supply the electrical energy is statutorily conferred on the Board and, while transmitting the energy, if it 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. The Board is not expected to raise a defence that somebody committed mischief by siphoning such energy to his private property and that the electrocution was from such diverted line. It is pertinent to note that it is the lookout of the Electricity Board / managers / suppliers / representatives thereof deployed for such purpose to prevent such pilferage by installing necessary devices. Even otherwise, assuming that, as per the arguments advanced by the Learned Advocate for the respondent-Board, such measures were adopted, the appellant who unauthorisedly undertook an activity involving hazardous and risky exposure to human life, because of which the deceased came in contact and succumbed to the injuries by electrocution, cannot by itself lead to the conclusion that the Board be exonerated from its responsibility.

39. However, under the law of torts, irrespective of any negligence or carelessness on the part of the Electricity Board / managers of such undertaking, the liability still rests on the shoulders of the Board, as the basis of such liability is the foreseeable risk inherent in the very nature of such activities, which is described as “strict liability”, which differs from the liability which arises on account of the negligence or fault on its part.

40. Thus, while dealing with the reports and the panchnama prepared by the officers, nowhere is negligence attributed to the appellant. Apart


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from the same, the responsibility stands on the shoulder of the Board. Therefore, keeping in mind the aforesaid and while considering the facts on record, the liability stands to be settled on the shoulders of the Board instead of the appellant, as per the principles of strict liability, as well as in the absence of any such cogent material so as to extend the same to the appellant.

41. In context to the decision laid down by the Hon'ble Apex Court in ***H.S.E.B. and Others v. Ram Nath and Others, (2004) 5 SCC 793***, wherein it has been held that an electricity company carries on a business which is inherently dangerous and that if a person comes into contact with a high-tension wire he is bound to receive serious injury or die, and therefore the company must ensure that no injury results from its activities. The principle of strict liability so laid down, read with Sections 63 and 68 of the Electricity Act, 2003 relating to safety of supply and overhead lines, squarely applies to the facts of the present case. The investigation of the Board has not been proved in accordance with the law of evidence. Though it is alleged that the incident took place at a private premises from private wiring illegally used by the appellant, the Board has miserably failed to prove the said facts so that the Board can be exonerated, while saddling the liability on the shoulders of the appellant. The Court below rightly noticed the incident but erred in holding the appellant responsible, when the report was not proved and even otherwise, the primary duty to prevent escape of a dangerous energy rests on the Board.

42. Even considering the material placed for consideration by the


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Board, so also the inquiry and investigation carried by the Electricity Company, nothing sort of any such cogent material seems to have been placed on record to saddle the responsibility of the appellant. On the contrary, the report solely rests on assumptions and presumptions and, merely because the incident in question has taken place at the private premises of the appellant and from private wiring alleged to have been illegally used by the appellant, without there being any substance, is no ground to hold the appellant responsible for the alleged incident.

43. Thus, the Board miserably failed to prove their stance so as to relieve and get exempted from their responsibility in the alleged incident. Thus, the substantial questions of law as proposed to be appreciated are only referring to the aspects of appreciation of the evidence, which the Trial Court have not rightly considered qua the incident while saddling the responsibility on the appellant instead of on the Board, and thereby appeared to have erred in holding the appellant responsible for the act, as the report was not proved in accordance with the provisions of the law of evidence.

44. The Dakshin Gujarat Vij Company Ltd. (original defendant No.2) is directed to deposit the said amount before the Learned Civil Court, Navsari, along with the interest accrued thereon, as awarded by the judgment and decree dated 30.09.2006 passed by the Learned Civil Court, Navsari in Special Civil Suit No.44 of 2002 (Old Special Civil Suit No.282 of 2000), within a period of one month.

45. Thus, in view of the aforesaid, the present appeal is allowed and


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consequently, it is directed that, as the decretal amount has been deposited, the appellant shall be at liberty to withdraw the said amount, and the concerned Registry shall release the same in favour of the appellant after due verification.

46. In view of the aforesaid directions, the Civil First Appeal preferred by the appellant is hereby allowed, and is disposed of in the aforesaid terms.

47. Record and proceedings, if any, be remitted to the concerned Court forthwith.

**(ILESH J. VORA,J)**

**(R. T. VACHHANI, J)**

MVP



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