



**RSA-2409-1997 (O&M) and
XOBJC-3-C-1998**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-2409-1997 (O&M) and
XOBJC-3-C-1998**

Reserved on: 20.08.2025

Pronounced on:25.08.2025

Punjab State Electricity Board

.....Appellant

VERSUS

Ajmer Kaur and Another

.....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Y.P.Khullar, Advocate for the appellant
(through video conferencing)

Ms. Harpreet Kaur, Advocate for
Mr. J.S.Maaniipur, Advocate for the LR's of respondents.

MANDEEP PANNU, J

1. This Regular Second Appeal has been filed by the Punjab State Electricity Board (for short, 'PSEB') against the judgment and decree dated 25.02.1997 passed by the learned Additional District Judge, Rupnagar, whereby the appeal of the respondents/plaintiffs was accepted, the judgment and decree of the learned trial Court dated 02.11.1993 was set aside, and the suit of the respondents/plaintiffs was decreed. Cross-objections have also been filed by the respondents/plaintiffs seeking enhancement of compensation.

Brief Facts

2. The respondents/plaintiffs instituted a civil suit seeking recovery of damages on account of the death of one Piara Singh, aged about 35 years, who is



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stated to have died on 6.11.1988 after suffering an electric shock. The respondents/plaintiffs alleged that the deceased was unmarried and issueless, and that he was contributing ₹1000 per month from his earnings of ₹2000 to them.

3. According to the respondents/plaintiffs, Piara Singh along with Sant Ram and others was engaged in repairing the bore of a tubewell situated in village Barsalpur. They pleaded that the electric wires of the Punjab State Electricity Board were passing overhead in contravention of rules, that such wires had become loose due to negligence of the Board, and that current passed into the iron pole being used for the repair, resulting in both Piara Singh and Sant Ram receiving electric shocks and dying on the spot. They accordingly claimed compensation of ₹1,00,000/- on account of death of Piara Singh, being his legal heirs.

4. The defendant-PSEB contested the suit, asserting that the tubewell in question did not belong to Piara Singh but to one Gurdev Singh. It was pleaded that the wires were intact, at a height of 20 feet, and not defective. The accident occurred, according to the appellant/defendant, because the deceased and his companions, while drilling a new bore, lost control over a metallic pipe which accidentally touched the live wires. The appellant/defendant asserted that had the deceased informed the Board, the supply could have been switched off and the accident avoided. The Board, therefore, denied any negligence.

5. On the basis of the pleadings, the learned trial Court framed the following issues for adjudication:



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1. Whether Piara Singh died on account of electric shock and the plaintiffs being his heirs are entitled to compensation? If so, how much? OPP
2. Whether the suit is not maintainable? OPD.
3. Whether the plaintiffs have no locus standi to file the present suit? OPD.
4. Whether the suit is bad for non-joinder of necessary parties? OPD.
5. Relief.

Findings of the Trial Court

6. In order to prove their case, the respondents/plaintiffs examined Chajja Singh (PW1), Jaswant Singh (PW2), Ashok Kumar, Draftsman (PW3), Dr. Rekha Mittal (PW4), Sher Singh (PW5), and tendered a site plan (Ex. P1), copy of postmortem report (Ex.P2), and power of attorney (Ex.P3). The appellant/defendant examined Charan Singh Boparai, Junior Engineer (DW1).

7. After hearing the parties, the learned trial Court concluded that the evidence of the defendant, which was based upon official records, was convincing. It held that Piara Singh was repairing the tubewell when the metallic pipe, on being uplifted, accidentally touched the live wires overhead. He received an electric shock and died due to his own negligence. Accordingly, finding no negligence on the part of the PSEB, the learned trial Court dismissed the suit vide judgment and decree dated 02.11.1993.

**Findings of the Lower Appellate Court**

8. The appellants/plaintiffs preferred an appeal before the learned Additional District Judge, Rupnagar. The lower appellate Court, after going through the evidence, held that the evidence produced by the plaintiffs had not been satisfactorily rebutted by the Board. PW1 Chajja Singh stated that Piara Singh died due to electric shock and that the wires put up by the employees of defendant-Board were loose and were passing over the tubewell. He further deposed that both Piara Singh and Sant Ram suffered electric shocks due to loose wiring, and that there was current even in the poles of the PSEB. In cross-examination, he stated that the wires were at a height of 15 feet but were very loose and hanging. He also stated that Piara Singh had approached the PSEB authorities for repair, but no action was taken.

9. The appellate Court also relied upon PW2 Jaswant Singh, who supported the plaintiffs' version, and PW5, the brother of the deceased, who stated that Piara Singh and Sant Ram died due to electric shock while repairing the tubewell. As regards the defence evidence, the appellate Court observed that DW1 Charan Singh Boparai admitted that he was not posted in the division concerned in 1988, as he had only joined Chamkaur Sahib in September 1991. The officers who visited the spot immediately after the accident were not produced, nor were their reports brought on record. The appellate Court, therefore, held that the Board had withheld material witnesses, and adverse inference was drawn. Consequently, the appellate Court decreed the suit and awarded ₹72,000 as compensation, taking a multiplier of 12.

**Submissions of Counsel for the parties**

10. Learned counsel for the appellant-Board argued that the respondents/plaintiffs failed to prove negligence. Infact the wires were in existence for 30–40 years and could not suddenly have become loose, and that no complaint had ever been lodged by the deceased. It was submitted that the appellate Court wrongly decided Issue No. (i) against the Board by drawing adverse inference. It was further argued that DW1 had clearly deposed that the accident occurred due to negligence of the deceased, and that had the deceased informed the Board, supply could have been disconnected.

11. Learned counsel for the respondents/plaintiffs, on the other hand, supported the judgment of the lower appellate Court, submitting that negligence of the Board was duly proved by PWs. It was further urged that the compensation should have been enhanced by applying a multiplier of 16 as the deceased was 35 years old, and interest should have been awarded on the compensation amount by allowing cross-objections.

Findings

12. I have carefully considered the rival contentions and scrutinised the record. The burden of Issue No. (i), namely whether Piara Singh died due to electrocution on account of negligence of the Board, lay upon the plaintiffs. It is well settled that in cases of tortious liability, the burden lies upon the plaintiff to prove negligence of the defendant.

13. It stands admitted from the deposition of PW1 that the wires were at a height of about 15 feet. No cogent evidence has been adduced to establish that the wires were below statutory height or dangerously loose. It is also undisputed that



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these wires had been in existence for more than 35 years for supply to the village. No written complaint or record has been produced to show that any request for repair was made to the PSEB authorities prior to the accident.

14. The lower Appellate Court observed that PW1 had stated that the wires were loose and that current was in the poles. However, this testimony, without corroboration from technical or documentary evidence, cannot conclusively establish negligence of the Board. The appellate Court further erred in drawing adverse inference merely because officers who inspected the site in 1988 were not produced. The weakness of the defendant's evidence cannot absolve the plaintiffs of their burden of proof.

15. On the contrary, the evidence of respondents/plaintiffs clearly shows that the deceased was drilling the bore with long metallic pipes under live high-tension lines and lost control of the pipe, which accidentally touched the wires. Such conduct, without taking precautionary measures or informing the Board to disconnect the supply, amounts to negligence, on the part of the deceased. The proximate cause of the accident was not the alleged loose condition of the wires but the careless handling of the metallic pipe under live wires by the deceased.

Conclusion

16. In light of the above, it is held that the respondents/plaintiffs failed to discharge the burden of proving negligence on the part of the appellant-Board. The testimony of PW1 and PW2, though relied upon by the appellate Court, is insufficient in law to establish negligence without corroboration. The trial Court was correct in holding that Piara Singh died due to his own negligence when the pipe accidentally came into contact with live wires. The lower appellate Court



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misdirected itself in reversing those findings by drawing unwarranted adverse inferences against the Board.

17. Consequently, the judgment and decree of the lower appellate Court are set aside and the judgment and decree of the trial Court dismissing the suit are upheld. The cross-objections filed by the plaintiffs for enhancement of compensation also stand dismissed.

18. In the result, the appeal filed by the Punjab State Electricity Board is allowed.

19. Parties are left to bear their own costs.

20. Pending application(s), if any, also stand disposed of.

August 25, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No