

**Court No. - 39**

**Case :-** FIRST APPEAL No. - 713 of 2021

**Appellant :-** Pappu

**Respondent :-** U.P. State Electricity Board Its Principal Officer

**Counsel for Appellant :-** In Person, Smt. Shanti Devi, Sudhanshu Kumar, Swapnil Kumar

**Counsel for Respondent :-** Baleshwar Chaturvedi

**Hon'ble Sandeep Jain,J.**

1. The instant appeal has been filed by the plaintiff under Section 96 CPC against the impugned judgment and decree dated 29.10.2005 passed by the Additional District Judge Court No. 7 Agra in O.S. no.171 of 2003 Pappu vs. Uttar Pradesh Electricity Board, whereby the plaintiff 's suit seeking compensation for the injuries sustained due to electrocution from the transformer of the defendant on 01.3.1997 has been dismissed on the ground that the incident occurred due to the plaintiffs' own negligence. **Appeal is admitted.**

**Plaint case**

2. The plaintiff- appellant Pappu filed O.S.no 171 of 2003 through his guardian and next friend his father Hari Singh, against defendant U.P. State Electricity Board with the averments that he was an innocent, simple but intelligent, healthy, energetic and handsome child aged about 7 years, studying in 2nd class in Kapil Dev Shastri, Jr.High School, Nangla Padi,Agra. The defendant is a statutory body constituted under the provisions of the electricity laws, the basic object of whom is to generate, transmit and supply electricity by installing the electric line, transformers and other instruments.

3. It was further averred that the defendant placed a transformer of 11,000/400 Volts 100 KVA capacity on the open land near the gate of the building of Primary School,Nangla Padi,Agra, which was managed by Nagar Nigam, Agra. It was further averred that the distance between the steps of the school building and the place where the above transformer was installed was not more than 3 feet, the transformer was placed in open without any fencing, barricading or

any other means to protect it. It was further averred that under law such transformer must be efficiently protected by fencing not less than 1.8 m in height or other means so as to prevent access to the electric line and apparatus therein. It was further averred that the officials of the defendant never erected any such protection around the transformer as was required by law.

4. It was further averred that the residents of the locality several times requested the officials of the defendant to protect such transformer as per law by fencing or otherwise so that any untoward accident may not be caused but no heed was paid to it.

5. It is the specific case of the plaintiff that on 01.3.1997 at about 5 PM when he was playing with other children near the above school building, then he had an accidental contact with the 11 KV side of the transformer, which was unprotected and unsecure, there was a heavy flash and both his hands and arms were badly burnt due to electrocution. Some neighbours on seeing the incident rushed to the spot and removed the plaintiff from the said transformer and got him admitted to S.N. Medical College Hospital, Agra, where a major operation was done on 14.3.1997 in which both the hands and arms of the plaintiff were amputated. He was again operated on 28.4.1997 and 7.5.1997. It was further averred that the plaintiff remained in the hospital from 01.3.1997 to 19.3.1997 and again from 03.4.1997 to 12.5.1997 and he was still in the treatment of Dr.Rahul Sahai. It was further averred that an FIR regarding the accident was lodged at police station New Agra, District Agra.

6. It is the specific case of the plaintiff that the said accident was caused by the serious and unimaginary negligence committed by the officials of the defendant. It was further averred that the plaintiff has lost both his hands, as such his life has become miserable since he is totally dependent on others, he cannot take food, cannot wear his clothes, cannot wash or brush his teeth and cannot perform his daily morning rituals. He cannot play with toys, he can only watch them helplessly. It was further averred that the plaintiff is not in a position to earn his livelihood throughout his life, his father was also an ailing person, who was unemployed.

7. The plaintiff claimed compensation for loss of earning @ ₹ 4,000/- per month up to the age of 70 years amounting to ₹ 30.24 lakhs,

salary of one attendant for 24 hours a day @ ₹ 3,000/- per month amounting to ₹ 22.68 lakhs, expenses incurred in treatment of ₹ 50,000/-, compensation for mental torture, agony to him and his family amounting to ₹ 5 lakhs, loss of earning of his mother and brother amounting to ₹ 5,000/-. In this way, the plaintiff claimed compensation of ₹ 58.47 lakhs for the injuries suffered by him due to electrocution from the transformer of the defendant, which was still lying open, unprotected and unsecured after the accident.

8. The plaintiff initially sought permission to file the suit as an indigent person by filing miscellaneous application on 30.5.1997, which was allowed by the trial court on 21.2.2003 with the finding that plaintiff was only 10 years old, whose both hands are amputated, whose father has died, whose mother is a labourer and the plaintiff has 3 other siblings. During the pendency of the indigent proceedings the plaintiff's father Hari Singh died on 23.5.1998, and the mother of the plaintiff Smt. Shanti Devi became the guardian and next friend of the plaintiff. Thereafter, the suit was registered as O.S.no.171 of 2003.

9. In the above backdrop, the plaintiff has claimed with following reliefs:-

*(A) That a decree of ₹ 58.47 lakhs along with interest @ 2% per month future and pendente lite from the date of accident till the date of realisation be decreed in favour of the plaintiff against the defendant.*

*(B) That the cost of the suit be also awarded in favour of plaintiff against the defendant.*

*(C) That any other relief which the Hon'ble Court may deem just and proper in the circumstances of the case be also awarded in favour of the plaintiff against the defendant.*

### **Written Statement of the defendant**

10. The defendant in his written statement evasively denied the plaintiff's averments. It was averred that the transformer was installed as per rule and regulation of the Board. It was specifically denied that the officials of the defendant never made any such protection as required under law. It was also specifically denied that the residents of the locality ever requested the defendant to protect the transformer. It was admitted that an incident took place on 1.3.1997 due to the own negligence of the plaintiff in which the plaintiff was electrocuted. It was averred that there was no negligence on the part of the defendant in the alleged accident, which occurred due to the own negligence and fault of the plaintiff as such, the defendant cannot be blamed for

the laches on plaintiffs part and the defendant was not liable to pay any damages as claimed by the plaintiff. It was also averred that the plaintiffs claim was highly inflated, excessive and unreasonable, the plaintiff has got no cause of action to file the suit against the defendant.

11. It was further averred that plaintiff filed complaint no.9484/24/97-98 before the National Human Rights Commission, New Delhi who vide its order dated 20.5.1999 directed the defendant to pay ₹ 1 lakh in addition to a sum of ₹ 20,000/- and ₹ 5,000/- already paid to the plaintiff and in compliance of the above order, the defendant paid ₹ 1 lakh on 4.7.2000, on which the plaintiff was getting monthly interest. It was further averred that the defendant as a matter of courtesy and on humanitarian ground has paid an amount of ₹ 1.25 lakhs to the plaintiff as a consolation compensation which has been acknowledged by him.

12. It was further averred that the plaintiff had knowledge of the existing danger and he could have reasonably avoided such danger or the alleged negligence of the defendant. The plaintiff was under legal duty to take care of his own safety which he did not and consequently, he was the author of his own wrong, who was injured by his own carelessness, who had voluntarily undertaken the risk for own negligence of not taking precaution against the known risk and the defendant was not liable for the alleged incident and consequently, was under no legal obligation to pay the alleged compensation to the plaintiff. The suit was barred by Section 33 of the Indian Electricity Act. The suit was misconceived and liable to be dismissed with costs.

#### **Documentary evidence of the plaintiff**

13. Original discharge slip issued by S.N. Medical College Hospital, Agra; injury report of plaintiff dated 01.3.1997; certificate issued by the Ortho Surgeon, District Hospital Agra dated 11.9.1997; copy of application given by the plaintiffs father to police station New Agra, Agra on 14.3.1997 and 5.5.1997, copy of application dated 12.3.1997 written by Nathan Singh Kushwah PW-3 to Executive Engineer Electricity Department, Agra; prescriptions of Jaidevi Nursing Centre, Agra and cashmemos of medicines purchased by the plaintiff.

14. The plaintiff was examined by Dr. A.K. Singh at the Emergency Department of S.N. Medical College and Hospital, Agra on 01.3.1997 at 7:15 PM, where the following injuries were found on his body :-

*"Superficial to deep burn over right upper extremity, some part of left arm upper one-third and left forearm with hand, some part of left big toe,*

*burn.....KUO. Patient admitted. Police informed."*  
*Opinion:-injury caused by electric burn KUO, duration fresh."*

15. According to the discharge slip filed by the plaintiff he remained admitted in S.N. Medical College and Hospital, Agra from 01.3.1997 till 19.3.1997 and again from 03.4.1997 till 12.5.1997 for surgical treatment under Dr.Rahul Sahai, the summary of which reads as under:-

*"Patient was admitted as a case of electric burn, amputation was done of both upper limbs, the right upper limb was amputated above elbow, while the left upper limb was amputated below the elbow. There was no post operation complications. Patient discharged with advice of medical treatment."*

16. The plaintiff has also filed the certificate issued by Dr.A.K.Ambesh,Ortho Surgeon, District Hospital Agra dated 11.9.1997 according to which the plaintiff is permanently disabled due to below shoulder amputation of both upper extremity.

17. No documentary and oral evidence was adduced by the defendant.

#### **Issues framed by the trial court**

18. On the basis of the pleadings of the parties, the following issues were framed by the trial court:-

- (i)Whether the accident occurred on 1.3.1997 due to fault of the electricity department since the transformer was kept open, as a result of which the plaintiff sustained injuries ?*
- (ii)Whether the plaintiff is entitled to any compensation from the department ?*
- (iii)Whether the suit is barred by Section 33 of the Indian Electricity Act ?*

#### **Oral evidence of the plaintiff**

19. The plaintiff examined his mother Smt. Shanti Devi as PW-1, Omprakash as PW-2 and Nathan Singh Kushwaha as PW-3.

20. Smt. Shanti Devi PW-1 deposed in her examination-in-chief that the plaintiff is her son who was residing with her. Defendant had established the transformer of 11,000/400 Volts and 100 KVA capacity in open place near the gate of Primary School, Nangla Padi,Agra which was managed by Nagar Nigam. There was hardly a distance of 3 feet between the transformer and the school building and the transformer was installed in an open place, without any fencing and barricading in order to save people. The employees of the defendant never took any steps for the safety of transformer. The local residents complained many times to the employees of the

defendant for erecting fencing around the transformer so that the life of the people was not endangered but malafidely they did not pay any heed.

21. She further deposed that on 01.3.1997 at about 5 PM the plaintiff along with other children of the above primary school, were playing near the school building, then while playing the plaintiff came in contact of the above transformer, which was kept on the ground without any fencing. As soon as the plaintiff came in contact with the transformer, a flash was generated in which both hands of the plaintiff were badly burnt due to electrocution, some neighbours rushed to the spot who removed the plaintiff from the transformer and got admitted him to S.N.Medical College. She further deposed that a FIR was registered regarding the accident at police station New Agra, Agra by plaintiffs father Hari Singh.

22. She further deposed that since both the hands of the plaintiff were badly burnt, the doctors in order to save his life, amputated them in an operation on 14.3.1997. Since some other medical problems remained, the plaintiff was again operated in the above Hospital on 28.4.1997 and 7.5 1997, for which the plaintiff remained admitted in the above Hospital from 1.3.1997 to 19.3.1997 and 3.4.1997 to 12.5.1997, and thereafter, the plaintiff was under treatment of Dr.Rahul Sahai.

23. She further deposed that the above accident occurred solely due to the negligence of the defendant and its employees. Without both hands, the life of the plaintiff has become miserable, who cannot – eat, wear clothes, perform daily rituals, play with toys. The plaintiff requires the assistance of an attendant throughout his life. The plaintiff belongs to a poor family, whose father has died due to poverty and illness. Since both hands of the plaintiff have been amputated, he is not in a condition to earn his livelihood. She has demanded a compensation of ₹ 58.47 lakhs under different heads. She further deposed that even after the accident, the transformer is still lying in the open.

24. PW-1 in cross-examination deposed that the school in which the plaintiff studied was at a distance of about one kilometre from her house. She admitted that the information of the accident was given to her by neighbouring children. She disclosed that the accident occurred from the transformer which was kept on the road outside the school. She further disclosed that on getting information, she straightaway went to the emergency of the S.N. Medical College where the plaintiff was admitted. She further deposed that the plaintiff remained admitted in the above Hospital for about 4 months during which his both hands were amputated.

25. She further deposed that at the time of the accident the plaintiff was studying in class II of Kapil Dev school, after the accident the studies of plaintiff abruptly ended, who thereafter, remained at the house. She admitted that she has seen the place of accident, where the transformer was kept in open, on the ground, which was not surrounded by any fencing, which was at the same place since 2 years prior to the accident, and regarding this, the local residents had complained even prior to the accident.

26. She denied the suggestion that the accident occurred due to the sole negligence of her son. She disclosed that her 3 other sons were elder than the plaintiff who were doing private job and marriage of one son has been solemnised. She admitted that she had earlier complained to the Human Rights Commission which granted ₹ 1 lakh compensation which has been deposited by the defendant in plaintiff's name, on which he is earning monthly interest of ₹ 700/-. She also admitted that besides the above amount, the defendant has also paid ₹ 25,000/-.

27. Omprakash PW-2 deposed in his examination-in-chief that he was the eyewitness of the accident that occurred on 1.3.1997, since he used to iron the clothes near the school on a cart. He deposed that the defendant had installed a 11,000/400 Volts, 100 KVA transformer in open near the Primary School, Nangla Padi, Agra which was managed by the Nagar Nigam. There was hardly a distance of 3 feet between the transformer and the school building, the transformer was kept in open, without any fencing and barricading to save people from coming in contact with it. The local residents also complained many times to the employees of the defendant for erecting fencing around the transformer but no heed was paid.

28. He further deposed that on 01.3.1997 at about 5 PM when plaintiff was playing with other children near the above school building then while playing, he came in contact with the above transformer, which was kept on the ground without any fencing, from which electricity lines were going, due to which an electric flash was generated, and due to the flow of electricity, both hands of the plaintiff were badly burnt. He and other nearby people rushed to the spot and pulled the plaintiff from the collar of his shirt, removed him from the transformer, who was taken by his parents to the emergency department of the S.N. Medical College. The badly burnt hands of the plaintiff were amputated by doctors by operation on 19.3.1997. The accident occurred due to the negligence of the employees of the defendant. The life of the plaintiff without hands has become miserable. The plaintiff and his family are very poor, who have got no means of livelihood.

29. PW-2 in cross-examination deposed that his cart on which he used to iron clothes, was at a distance of about 10 – 15 paces from the transformer. He knew the plaintiff prior to the accident. The accident occurred at about 5 PM, the transformer was at a distance of about 3 – 4 feet from the school of Nagarpalika, which used to close in the evening. After the accident, nearby people gathered at the site of accident. He disclosed that the children were playing near the transformer, which was on the road, and a 11 KV line was coming from above to the transformer. He also deposed that no sooner the plaintiff touched the transformer, he got electrocuted and his hands were badly burnt. He also disclosed that a complaint was made by municipal member Nathan Singh. He denied the suggestion that he was not present at the time of the accident and was giving false testimony due to acquaintance with the plaintiff. He further denied the suggestion that the accident occurred due to the negligence of the plaintiff, for which the employees of the defendant cannot be faulted.

30. Nathan Singh Kushwaha PW-3 deposed in his examination-in-chief that the defendant had installed 11,000/400 Volts, 100 KVA transformer in open near the gate of Primary School, Nangla Padi, Agra managed by Nagar Nigam, Agra, which was hardly at a distance of 3 feet from the school building. The transformer was in the open, which was not surrounded by any fencing and barricading, in order to save people from coming in contact with it.

31. He further deposed that in the year 1997 he was the member of the Nagar Nigam from Nangla Padi and he himself and the local residents complained many times to the officials of the defendant for fencing the above transformer, so that the lives of the common people may not be endangered, but negligently the employees of the defendant failed to pay any heed on his application. He further deposed that on getting information of the accident on 1.3.1997 at 6 PM, being the neighbour and municipal member he went to the S.N. Medical College to see the admitted plaintiff, where he saw his badly burnt hands, and nearby, parents and family members of the plaintiff were present who were very distraught. He also deposed that a FIR was also registered with the police regarding the accident, the application of which was scribed by him. He also deposed that in a major operation on 19.3.1997 both hands of the plaintiff were amputated and the accident occurred due to the loss negligence of the defendant and its employees. He further deposed that the plaintiff and his family members were very poor who had no means of livelihood.

32. PW-3 deposed in cross-examination that he was a teacher, whose house was at a distance of about 200 metres from the site of accident. He admitted that he was not present at the time of accident, who came to know about the accident at about 6 PM, when he returned to his

house. He reiterated that the distance of the transformer from the boundary of Nagar Nigam's school was about 3 feet. He disclosed that there was no shop on both sides of the transformer, which was in the open place, which was kept on a foundation of bricks, which had been cemented, nearby poles were installed, but there was no fencing. He disclosed that the transformer was installed one – one and half years prior to the accident. He disclosed that on the 14th he got the FIR registered, the application of which was written by him. He also disclosed that as per his knowledge prior to this accident, no such accident occurred. He denied the suggestion that previously he had not complained to the officials of the defendant. He also denied the suggestion that since he was friendly with the plaintiff, was giving false testimony. He also denied the suggestion that as per the rules of the defendant, the transformer was correctly installed.

### **Reasoning of the trial court**

33. The trial court recorded the following reasons in the impugned judgment:-

- (i) Smt. Shanti Devi PW-1 was not an eyewitness of the accident.*
- (ii) Plaintiff has not examined himself as a witness in the court.*
- (iii) From the evidence of eyewitness PW-2 Omprakash it was proved that the plaintiff has himself negligently touched the transformer, in which there was no negligence of the defendant.*
- (iv) Nathan Singh PW-3 is not an eyewitness but he has admitted that the transformer was installed on a foundation of bricks which was cemented, which proved the statement of PW-1 wrong, that transformer was installed on the ground.*
- (v) The plaintiff has filed photo copy of the documents, which were not proved in accordance with law, hence were inadmissible in evidence.*
- (vi) The plaintiff has not given any notice under Section 33 of the Indian Electricity Act, 1910.*
- (vii) The defendant has already paid an amount of ₹ 1 lakh to the plaintiff on account of complaint made to the Human Rights Commission. Besides this, the defendant has also paid an amount of ₹ 25,000/- to the plaintiff.*
- (viii) The accident took place on 01.3.1997, but the application was given with delay at the police station on 14.3.1997, but the explanation of delay was not given.*
- (ix) From the evidence on record it was not proved that the accident occurred due to the negligence and fault of the defendant.*

34. For the aforesaid reasons, the trial court concluded that the plaintiff failed to prove his case, hence no relief could be granted to him and consequently, the plaintiff's suit was dismissed with costs, aggrieved against which, the plaintiff sought leave of this Court to file this Appeal under Section 96 CPC, as an indigent person, which was granted vide order dated 09.9.2021 and consequently, the plaintiff was permitted by this Court, to file appeal as an indigent

person.

**Submissions of the learned counsel of the parties**

35. Learned counsel for the plaintiff appellant submitted that the plaintiff was only 7 years old at the time of the accident, which occurred on 01.3.1997 at about 5 PM, who was studying in class II, who was playing with other children outside the Primary School managed by Nagar Nigam, Agra, when he accidentally came in contact with the 11,000/400 Volts, 100 KVA transformer of the defendant, which was kept in open without being surrounded by any fencing and barricading, which was necessary in order to prevent people from coming in contact with it.

36. Learned counsel further submitted that had the transformer surrounded by proper fencing and barricading, the plaintiff would not have come in contact with it. It was further submitted that the plaintiff was only 7 year old child at the time of accident as such, the plea of negligence cannot be taken against him. It was further submitted that in cases of electrocution from high tension electricity, the principle of negligence is inapplicable. In such cases, the principle of strict liability applies and it was the bounden duty of the defendant to keep its transformer enclosed in a cage, so as to prevent passers by from coming in contact with it.

37. It was further submitted that the defendant has admitted the accident and has also not entered the witness box to deny the accident and offer himself for cross-examination by the plaintiff. Further the defendant has not led any evidence to contradict the plaintiffs case. It was further submitted that the defendant has not produced any rule or regulation to prove that it was not required to take sufficient precaution for ensuring that people may not come in contact with the transformer.

38. It was further submitted that the plaintiff has lost both his hands in the accident, which occurred due to electrocution from the transformer of the defendant, which was kept negligently in open place, without being surrounded by any cage, to prevent plaintiff and other people from accidentally coming in contact with it, as such, the plaintiff is entitled to compensation for the injuries suffered by him in the accident.

39. It was further submitted that the plaintiff has lost both his hands in the accident, which is proved from the oral and documentary evidence on record. The plaintiff is unable to earn his livelihood and he is completely dependent on other persons for his survival, throughout his life. The plaintiff requires one constant attendant to

look after him. It was also submitted that in this case the plaintiff is entitled to compensation on the basis that he was a skilled labour at the time of the accident, for the loss of earning due to 100% permanent disability. He also submitted that the plaintiff is also entitled to compensation for loss of future prospects, loss of amenities and enjoyment of life, loss of marriage prospects, expenses incurred on medical treatment, expenses for future medical treatment, compensation for pain and suffering, etc. With these submissions, it was prayed that the appeal be allowed and reasonable compensation be awarded to the plaintiff.

40. Per contra, learned counsel for the defendant respondent submitted that the transformer was not kept on the ground but it was installed on a cemented platform, which was at a considerable height, the plaintiff climbed the above platform, which was not permitted, thereafter, the plaintiff touched the transformer, which was also not permitted. It was submitted that had the plaintiff not climbed the platform on which the transformer was installed and further, not touched the transformer, the accident would not have occurred. It was submitted that the accident occurred only due to the sole negligence of the plaintiff, who touched the transformer. There was no occasion for the plaintiff to touch the transformer. It was submitted that from the evidence of the plaintiff it was proved that the accident occurred only due to the negligence of the plaintiff as such, the trial court has rightly dismissed the suit, which requires no interference from this Court in exercise of its appellate jurisdiction. With these submissions, it was prayed that the appeal is meritless, which is liable to be rejected.

41. I have heard the learned counsel of both the sides, perused the impugned judgment and the record of the trial court.

42. The following issues arise for determination by this Court:-

*(i) Whether the plaintiff is required to prove that the defendant was negligent in installing its transformer in the open, which was not surrounded by any fencing or barricading, in order to prevent people from accidentally coming in contact with it ?*

*(ii) Whether for the injuries suffered in the accident, the plaintiff is entitled to any compensation from the defendant ? If yes , then how much ?*

### **Case law applicable**

43. The Apex Court in the case of ***Parvati Devi and Others vs. Commissioner of Police, Delhi and others (2000) 3 SCC 754***, held as under:-

*“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)

44. The Apex Court in the case of **MP Electricity Board vs. Shail Kumari (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 lookout 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 case 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.”*

45. The Gujarat High Court in the case of ***PGVCL and Another vs. Devsinhbhai Arjanbhai Hadiya and Another 2025 SCC Online Guj 4823***, held as under:-

*“8. Negligence in electrocution cases is often established through the failure of the electricity board or their officers in non-maintaining a high standard care in managing electrical infrastructure. Failure to repair or maintain equipment, resulting in accidents like electrocution, principle of strict liability is often applied because electricity is considered inherently Dangerous activity. Electricity providers have an utmost duty of care to ensure that lines and equipments are safe. This includes proper installation, maintenance and repair of all electrical infrastructure. If there is evidence of failure to meet these duties of care, it tantamounts to negligence on the part of electricity provider. The breach of duty must have directly caused the electrocution. Broken high voltage wires, open or exposed electrical wires, poor maintained poles or other infrastructure, lack of safety measures like warning signs where contact is possible are the instances of failure in taking utmost good care of electrical infrastructure and on proving such failures would invite a liability of compensating the victim or their legal representatives.*

*9. In Law of Torts, negligence means failure to exercise the standard of care that reasonable person would exercise in a similar situation, which results in harm or injury to another person. To prove negligence important elements such as a duty to the plaintiff, a breach of that duty, causation and damages are to be established. In the present case, the evidence indicates that plaintiffs have succeeded on all four counts and the oral deposition of the appellant is sufficient evidence in holding the appellants liable for compensation.”*

46. This Court in the case of ***Yashpal Singh (Minor) vs. State of UP Thru. Princ. Secy. (Electricity) and 5 Others 2017 SCC OnLine ALL 1246***, where death was caused due to contact with a live wire on account of the negligence and laxity of the functionaries of the Electricity Department, who failed to maintain the supply lines and take necessary precautions, held as follows:-

*“27. The electricity authorities are duty bound to observe precautions/safeguards under the provisions of the Indian Electricity Act and the Rules framed thereunder. Failure of such statutory functions/duties tantamounting to negligence cannot be overcome by alleged statutory obligations on the part of the consumer of the electricity. Electrocution by live wires necessitates strict liability and differs from liability arising on account of negligence and is not relevant in cases of strict liability. The electricity department is liable irrespective of the fact whether the harm could have been avoided by the consumer or injured by taking precautions.... “*

47. The High Court of Rajasthan in the case of ***Ajmer Vidhyut Vitran Nigam Ltd. Vidyut Bhawan, Jyoti Nagar, Jaipur and Others vs. Sohani Jat and Others*** 2022 SCC OnLine Raj 2265, held as under:-

*“13. From the factual matrix of this case negligence on the part of defendants by non maintaining High Voltage Electricity Line of 11,000 KV at the appropriate height is clear. At the site wires of High Voltage Electricity Line of 11,000 KV were loose and wire broken due to which heavy electricity passed in the pump-set of deceased and he was electrocuted. Once it is established that wire of High Voltage Electricity Line of 11,000 KV was broken due to which deceased got electrocuted, the principle of strict liability and vicarious liability comes in play. The defendants would be strictly and vicariously liable to compensate persons affected by accidents without being any fault of their and due to negligence on the part of department.”*

*(emphasis supplied)*

48. This Court in the case of ***Smt. Sunita Tiwari vs. State of UP and others Neutral Citation No.2010:AHC:83628***, while interpreting electricity as “hazardous substance” irrespective of its proportion under the Public Liability Insurance Act,1991, where rule of strict liability is applicable, held as under:-

*“This Court in the case of U.P. State Electricity Board vs. District Magistrate, Dehradun, 1997 UPLBEC (2) 1344, has already considered the issue that electricity falls within the definition of "hazardous substance" and the accident, caused on account of it, is covered under the provisions of the Public Liability Insurance Act, 1991. Relevant extract of the judgment, as contained in paragraphs 42 to 44, is being quoted below:*

*"42. Hence in my opinion 'hazardous substance' as defined in Section 2 (d) of the 1991 Act is not to be confined to a substance specified in the notification issued by the Central Government, but it includes all substances which come under the definition of 'hazardous substance' under the Environment (Protection) Act, 1986, with this exception that if any such substance is also notified by the Central Government under Section 2 (d) of the 1991 Act then it will be a 'hazardous substance' only if it exceeds the quantity specified in the said notification. Thus the notification issued by the Central Government under Section 2 (d) of the 1991 Act can only narrow down the scope of 'hazardous substance' as defined under the Environment (Protection) Act, 1986, but substances which are not specified in the said notification will nevertheless be regarded as 'hazardous substances' under the 1991 Act if they come within the definition of 'hazardous substances' under the Environment (Protection) Act, 1986.*

*43. I have already stated above that electricity is "hazardous substance" as defined under the Environment (Protection) Act, 1986 and hence I reject the submission of the learned counsel for the petitioners that it is not a hazardous substance since it has not been included in the Notification dated 24-3-1992.*

*44. THE principle of strict Liability Section 3 (2) of the 1991 Act places a strict liability (liability without fault) in cases of such accident due to*

*'hazardous substances' and it is not necessary for the claimant to plead that the death or injury was caused by wrong or negligent act of any person....."*

49. It is apparent from the law laid down by the Apex Court in **Parvati Devi** (supra) and **Shail Kumari** (supra) and High Courts in other cases, that in cases of electrocution by broken electricity line or any electrical infrastructure/equipment connected to it, the principle of strict liability is applicable and for obtaining compensation in such cases, the plaintiff is not supposed to prove that the Electricity Board or Power Corporation was negligent in maintaining the high tension electricity line, which snapped due to the fault of the Board/Corporation or the Board/Corporation was negligent in maintaining its electrical infrastructure/equipment. It is well settled that in cases of strict liability, the negligence of the defendant or its servants/employees is not to be proved. The plaintiff is only required to prove that he died or suffered injuries due to electrocution from the high tension electricity line or the electrical infrastructure/equipment of the defendant. Of course, this principle will not apply where any person dies or is injured due to electrocution while committing theft of electricity or of electrical infrastructure/ equipment such as distribution transformer, the oil of the transformer, copper or aluminium electrical wire, electrical poles, etc. This principle will also not apply where a person enters a restricted place where the electricity is being generated, transmitted, distributed such as electric substation, which is duly barricaded, fenced, walled, having gates for restricting the entry, which are locked, a display board is installed with a warning that it is a dangerous and prohibited zone, where public entry is banned. This principle is also not applicable where the person suffers injury while committing theft of the high tension electricity line of the Railways or any infrastructure/equipment connected with it.

#### **Conclusion of this Court**

50. It is the case of the plaintiff that at the time of the accident on 1.3.1997, he was only 7 years old, was studying in class II and was playing with other children outside the Primary School, Nangla Padi, Agra which was managed by Nagar Nigam Agra, then at 5 PM, he accidentally came in contact with the 11,000/400 Volts, 100 KVA electric transformer of the defendant, which was kept hardly at a distance of 3 feet from the steps of the school building, without any fencing or barricading, so as to prevent people from accidentally coming in contact with it. It is the specific case of the plaintiff that the transformer was not having any fencing and barricading, and due to this, while playing, he came in contact with it, got electrocuted, in which his both hands were badly burnt. The defendant in its written

statement has specifically admitted the above incident, that the plaintiff was indeed electrocuted on 1.3.1997, but it is the case of the defendant that the incident occurred due to the own negligence on the part of the plaintiff, in which there was no negligence of the defendant. In view of the above admission of the defendant, it was proved that indeed the plaintiff was electrocuted from the above electric transformer of the defendant.

51. The plaintiff in his plaint specifically averred that the transformer of the defendant must have been protected by fencing of at least 1.8 metre height or other means so as to prevent access to the electric line and apparatus therein, but the defendant never made any such protection as required under law. The defendant in its written statement countered it by saying that the transformer was installed as per rule and regulation of the Board. It was also denied that the officials of the defendant never made any such protection as required under law.

52. It is apparent that once having pleaded that the transformer was installed as per rules and regulation of the defendant, it was the bounden duty of the defendant to prove that it was indeed so. The defendant has not brought to the notice of the Court what were the relevant rules and regulation, which were to be complied while installing the transformer in the open place, outside the primary school and further, it had indeed complied with them.

53. The Apex Court in the case of ***Iswar Bhai C.Patel vs. Harihar Behera (1999) 3 SCC 457*** has observed as under :-

*"17..... Having not entered into the witness box and having not presented himself for cross-examination, an adverse presumption has to be drawn against him on the basis of the principles contained in Illustration (g) of Section 114 of the Evidence Act, 1872."*

54. The Apex Court in the case of ***Vidyadhar vs. Manikrao and Anr. (1999) 3 SCC 573*** has again reiterated that where a party to the suit does not appear in the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct.

55. It is apparent that the defendant has neither adduced any documentary nor any oral evidence in order to prove the averments of its written statement, as such, the contention of the defendant remains unproved. No official of the defendant has entered in the witness box to prove the case of defendant on oath, as pleaded in the written statement and offer himself for cross-examination by the plaintiff. In view of the above, an adverse presumption has to be drawn against

the defendant, on the basis of principles contained in Section 114(g) of the Evidence Act, 1872, that the case set up by the defendant that it installed the transformer as per the applicable rules and regulations of the Board and had also undertaken requisite safety measures to prevent anyone from accidentally coming in contact with it, is false.

56. From the evidence on record it is proved that the transformer of the defendant was kept just outside the Primary School, on the road, which was unprotected and unsecured, which was not fenced, barricaded or caged. From the evidence of PW-3 it was proved that the transformer was kept on the roadside (*kharanja*) on foundation of bricks, which was cemented, electrical poles were installed adjoining the transformer, but it was not fenced.

57. Learned counsel for the defendant respondent has submitted that the transformer was kept on a high cemented platform, on which the plaintiff climbed and thereafter, touched the transformer, due to which he was electrocuted. It was submitted that had the plaintiff not climbed the cemented platform on which the transformer was installed and not touched the transformer, then this incident would not have occurred, and for this incident, the plaintiff is solely responsible. It was also submitted that the plaintiff was well aware of the danger from the transformer, which he deliberately ignored, for which the defendant cannot be faulted in any manner whatsoever.

58. The Punjab and Haryana High Court in the case of *Anshu vs. State of Haryana and Others* in *CWP No.17880 of 2023* decided on 16.03.2026, where due to the negligence of Dakshin Haryana Bijli Vitran Nigam Ltd. in maintaining a high-tension electric wire at a safe distance from a balcony, the claimant, aged 6 years, suffered serious permanent disability due to the amputation of her right arm, held as under:-

*“12.1 Further, with regard to the liability to pay compensation by the tortfeasor, in the case of a gravely injured child, the concept of contributory negligence cannot be made applicable. There can be no denying that a child functions according to his own reasoning and intelligence. As noticed hereinabove, there is no material brought on record to show that the petitioner was at any fault. Even with regard to the allegation qua the father of the petitioner having extended the balcony, in the absence of any material available on record and the factum that the respondent Nigam has accepted its negligence and liability, the petitioner cannot be held liable for contributory negligence. Even otherwise, the manner in which the accident had occurred, it was for the Nigam to establish contrary to the inquiry report that there was no negligence on its part. Since the HT line carrying high voltage electricity was passing at a very close distance from the petitioner's house, no contributing negligence can be attributed to a girl aged about 6 years. A Division Bench of the Madhya Pradesh High Court in *M.P. State Road Transport Corporation and others vs. Abdul Rahaman**

and others, reported in AIR 1997 MP 248, held as under:

*“11. From the aforesaid discussion relating to contributory negligence on the part of a child of tender age there is no doubt that the concept of contributory negligence cannot be made applicable to a child. A child functions according to his own reasoning and his intelligence. Logicality and rationality are not expected from a child as a child of tender age has no continuous thinking process and is governed by his impulse, instinct and innocence. Can one ever conceive that a child, if would have been aware of the peril, would ever commit an act which is dangerous or hazardous for him? The answer has to be a categorical 'No', because a child's action is childlike and really innocent. Possibly for that reason, it has been said :--*

*"The Maker of the Stars and Sea, become a Child earth for me?"*

*A child remains a child in spite of all training and directions and if anything sparkles it is the glory of his innocence which makes him indifferent to the risks which an adult apprehends and pays attention. In view of our aforesaid analysis, we conclude and hold that Riyaz, the child of four, was not liable for contributory negligence.*

\*\*\*\*\*

*24. Insofar as the disability in the present case is concerned, the petitioner's right arm having been amputated from the shoulder, she would require an advance prosthetic arm, which would enable her to attend to her daily activity and carry on with life. It is also to be taken note that the petitioner would require servicing and replacement of the accessories of the prosthetic limb periodically. In the absence of evidence regarding the quantum of expenditure in that regard, this Court is inclined to conservatively accept the amount awarded by the Hon'ble Supreme Court of India in Civil Appeal No.12098-12099 of 2024 decided on 04.09.2025 titled as Anoop Maheshwari vs. Oriental Insurance Company Ltd. and others, reported in 2025 SCC OnLine SC 1918. In the said case, in the absence of any evidence regarding the frequency of change or the servicing of the prosthetic limb or the quantum of expenditure, their Lordships of the Apex Court were of the opinion that an amount of Rs.10 lakh would suffice to account for the future expenses of continued use of the prosthetic limb and medical expenses arising in that regard. The said amount is also required to be awarded to the petitioner in the present case.”*

59. It is true that PW-3 has disclosed in his cross-examination that the transformer was installed on the cemented platform of bricks, which was by the roadside, but he has specifically said that there was no fencing surrounding the transformer or the platform. No suggestion has been given to this witness in the cross-examination that indeed the transformer was surrounded by fencing, barricading or it was caged. Besides this, the defendant could have proved the above fact by adducing evidence, but no such evidence was led by the defendant before the trial court. It is further apparent that no such suggestion was given to eyewitness Omprakash PW-2 that the plaintiff climbed on the cemented platform and then touched the transformer

deliberately. No question was put to PW-2 in order to ascertain the height of the cemented platform on which the transformer was installed. No such suggestion was put to PW-2 that the transformer was fenced, barricaded or caged and the plaintiff crossed that barrier and then, touched the transformer.

60. There is no evidence on record to prove that transformer was indeed surrounded by any fencing, barricading or it was caged so as to prevent anyone from accidentally coming in contact with it. It is apparent that in such circumstances, the plaintiff while playing near the transformer has accidentally touched it, and consequently, has suffered electrocution from high tension electric supply of 11KV, the fact of electrocution has been admitted by the defendant. It is also not proved from evidence on record that the plaintiff climbed the cemented platform on which the transformer was installed and then deliberately touched the transformer.

61. The injury report dated 01.3.1997, the treatment papers and the discharge summary of S.N.Medical College, Agra duly proved that the plaintiff has suffered burn injuries on his both hands due to electrocution. It is not the case of the defendant that the plaintiff has not suffered electrocution injuries. In fact, the defendant has admitted in its written statement that the plaintiff suffered electrocution injuries due to his own negligence. The defendant has also disclosed in its written statement that he has paid on humanitarian ground a compensation of ₹ 1.25 lakhs to the plaintiff, which itself proves that the plaintiff was electrocuted from the defendants transformer, which is not disputed by the defendant.

62. It is apparent that the plaintiff has been electrocuted from the transformer of the defendant which was installed on a cemented platform by the roadside. It is also proved that the transformer was of 11,000/400 Volts 100 KVA capacity, which was connected to a 11 KV high tension electric line of the defendant. The defendant has failed to prove that the transformer was fenced, barricaded or was caged, and the plaintiff crossed that barrier and touched the transformer. Since there was no barrier around the transformer, hence, the plaintiff accidentally came in contact with it while playing with other children outside the Primary School. In these facts and circumstances, the plaintiff was not required to prove that he was not negligent in the accident but the tortious principle of strict liability applies in which, the plaintiff has only to prove that he suffered electrocution injuries from high tension electrical infrastructure/equipment of the defendant, which he has successfully proved. In the facts and circumstances of the case, neither the plaintiff was required to prove that he was not negligent nor there was any negligence on the part of the plaintiff.

63. It is also apparent that the plaintiff was only about 7 years old at the time of the accident. It is also proved from evidence on record that the transformer was installed just outside the Primary School managed by Nagar Nigam, Agra, as such, the defendant was well aware of the existence of the school and the possibility that children studying in school may come in contact with its transformer, hence, the defendant should have taken proper steps to avoid any such untoward incident of electrocution from its transformer, but no such steps were ever taken by the defendant. From the evidence on record it is proved that even after the accident, the defendant has not taken any steps to avoid any such accident in future, which shows the careless and negligent attitude of the defendant towards the general public. It is also apparent that it is not expected from a child of 7 years of age to be aware of the imminent danger from a transformer, as such, the defendant cannot take the plea of negligence on the part of the plaintiff, for avoiding its tortious liability.

The defendant has also taken a plea in its written statement that the plaintiff's suit was barred by Section 33 of the Indian Electricity Act, 1910. The trial court has concluded that the plaintiff has not given any notice to the Electrical Inspector or other official of the defendant under the above provision. The question arises if no notice has been given by the plaintiff under the above provision, then whether the suit was barred ?

64. Section 33 of the Indian Electricity Act, 1910 reads as under :-

***Notice of accidents and inquiries--**(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in or in connection with, any part of the electric supply – lines or other works of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed to the Electrical Inspector and to such other authorities as the appropriate Government may by general or special order, direct.*

*(2) The appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other competent person appointed by it in this behalf, to inquire and report –*

*(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, supply or use of energy, or*

*(b) as to the manner in, and extent to, which the provisions of this Act or of any person, have been complied with.*

*(3) Every Electrical Inspector or other person holding an inquiry under sub-section(2) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908(5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector or such other person as aforesaid to furnish any information shall be*

*deemed to be legally bound to do so within the meaning of Section 176 of the Indian Penal Code(45 of 1860).*

65. The above provision only stipulates giving notice of the accident to the Electrical Inspector or such other authorities prescribed by the Government. In the above provision, nowhere it is mentioned that if it is not complied with, then the suit claiming compensation cannot be filed against the defendant.

66. From the above facts and applicable law, it is apparent that the trial court has erred in concluding that the accident occurred due to plaintiff's own negligence, for which the defendant cannot be faulted. The trial court also erred in concluding that the plaintiff has lodged the FIR regarding the accident with delay, as if, the trial court was deciding a criminal case. The issue of delay in lodging the FIR was not at all relevant, since the defendant has admitted in its written statement the accident of electrocution from its transformer and the defendant has even paid a paltry compensation of ₹ 1.25 lakhs for this, to the plaintiff. In view of this, the observation of the trial court that the plaintiff has filed photo copy of the documents which are inadmissible in evidence, is a perverse finding, on the basis of which plaintiff 's suit could not have been dismissed. It is a travesty of justice that the plaintiffs suit has been dismissed by an incompetent trial court Judge.

67. It is also evident that the trial court has not determined the amount of compensation payable to the plaintiff for the accident which occurred on 01.3.1997. It will be a travesty of justice if the case is remanded to the trial court for determination of compensation because 29 years have already lapsed after the accident and it will further prolong the agony of the plaintiff and his family. In view of this, this Court has proceeded to determine the compensation payable to the plaintiff, in accordance with the law and various precedents of the Apex Court.

### **Compensation payable to the plaintiff**

68. In the instant case the compensation is to be determined in the same manner, in which it is determined in a motor accident claim case, by considering the occupation of the plaintiff, his monthly income, nature of injuries whether simple or grievous, quantum of permanent disability, the earning capacity loss due to the permanent disability, and he is entitled to get compensation for future loss of earning due to permanent disability, treatment expenses incurred by him and to be incurred in future, compensation for loss of earning due to future prospects, compensation for pain and suffering, loss of amenities, enjoyment of life, special diet and expenditure incurred on

transportation.

69. It is proved from the evidence on record that the plaintiff was only 7 years old at the time of the accident, his both hands were badly burnt in the electrocution suffered from the defendants transformer, he remained admitted in the S.N.Medical College, Agra for treatment from 01.3.1997 to 19.3.1997 and again from 03.4.1997 to 12.5.1997 and he was still in the treatment of Dr.Rahul Sahai, when the case was filed. It was proved from the documentary and oral evidence on record that in the above Medical College his right hand above elbow and left hand below elbow, were amputated, due to electrocution burn injuries. It is also proved from the medical certificate of Dr.A.K.Ambesh, Ortho Surgeon, District Hospital, Agra dated 11.9.1997 that the plaintiff has suffered permanent disability due to below shoulder amputation in both upper extremity.

70. The Apex court in the case of ***Raj Kumar vs. Ajay Kumar and Another, (2011) 1 SCC 343***, while analysing how to determine compensation in cases of permanent disability, has held as under:-

*“10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.*

*11. What requires to be assessed by the Tribunal is **the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency)**. We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in *Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298]* and *Yadava Kumar v. National Insurance Co.**

*Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])*

*(emphasis supplied)*

71. Since, both hands of the plaintiff have been amputated, there is not an iota of doubt that he has become permanently disabled. It is further apparent that due to the amputation of his hands, the plaintiff is not in a condition to do any work and earn his livelihood. In view of this, the plaintiff has suffered 100 % functional disability, who is completely dependent on others for his survival and daily chores. The plaintiff is unable to eat, dress-up, play, his entire childhood has been spoiled, he cannot enjoy the amenities of life, his marriage prospects have vanished, his life has become miserable.

72. The Apex Court in the case of ***Kajal vs. Jagdish Chand & Ors. (2020) 4 SCC 413, Master Ayush vs. Branch Manager, Reliance General Insurance Co. Ltd. & Anr. (2022) 7 SCC 738, Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. 2024 SCC OnLine SC 3692 and Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari & Another 2025 INSC 1070*** has held that where a claimant has suffered 100% permanent functional disability due to an accident, the compensation under the head of loss of income must be awarded, at the very least, on the basis of the minimum wages of a skilled workman prevailing at the time of the accident in that region and should not be assumed on a notional basis. The Apex Court has also applied a multiplier of 18 for determining compensation in cases, where the claimant was below the age of 15 years at the time of the accident.

73. The Apex Court in the case of ***Pappu Deo Yadav vs. Naresh Kumar (2022) 13 SCC 790 (By Three Judges)*** while considering the issue of awarding future prospects in cases of permanent disablement from motor accident, held as under:-

*“7. Two questions arise for consideration : one, whether in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding that Pranay Sethi involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-Judge Bench decision in Jagdish [Jagdish v. Mohan, (2018) 4 SCC 571 : (2018) 3 SCC (Civ) 102 : (2018) 2 SCC (Cri) 572] was not binding, but rather that the subsequent decision in Anant [Anant v. Pratap, (2018) 9 SCC 450 : (2018) 4 SCC (Civ) 378 : (2018) 3 SCC (Cri) 756] to the extent that it did not award compensation for future prospects, was binding. This Court is of the opinion that there was no justification for the High Court to have read the previous rulings of this Court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent*

*disablement. Such a narrow reading of Pranay Sethi is illogical, because it denies altogether the possibility of the living victim progressing further in life in accident cases-and admits such possibility of future prospects, in case of the victim's death."*

74. The Apex Court in the case of ***Sidram vs. Divisional Manager, United India Insurance Co. Ltd. & Another (2023) 3 SCC 439***, while directing that in cases of serious permanent disability, compensation for future prospects should also be awarded, held as under:-

*"31. It is now a well-settled position of law that even in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the claimant is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases-and admits such possibility of future prospects, in case of the victim's death."*

75. The Apex Court in the case of ***Rahul Ganpatrao Sable vs. Laxman Maruti Jadhav (Dead) through LRS. and others, (2023) 13 SCC 334*** has awarded compensation towards attendant charges, future medical expenses, loss of marriage prospects and pain and suffering.

76. The Constitution Bench of the Apex Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi and Others (2017) 16 SCC 680*** has held that where the injured is self employed and upto 40 years old, then he is entitled to compensation towards future prospects @ 40% of his income.

77. It is evident that the accident occurred on 01.3.1997, when the plaintiff was only 7 years old. In this case the compensation is to be determined on the basis of minimum wages of skilled labour prevailing in the State of Uttar Pradesh at the time of accident, which was about ₹ 3,000/- per month. The plaintiff is entitled to future prospects @ 40% of his income. Besides this, since the plaintiff is fully dependent on others, he is entitled to wages of one attendant, on the basis of minimum wages of unskilled labour @ ₹ 2,500/- per month. He is entitled to future prospects on the wages of one attendant @ 40%, since the wages payable to attendant will also increase in future.

78. The plaintiff is also entitled to medical expenses incurred by his family for his treatment, special diet and transportation, loss of marriage prospects, pain and suffering, loss of amenities of life and loss of income of family members during his treatment. The plaintiff has not submitted any evidence regarding cost of artificial limb. It is also apparent that plaintiff has filed the suit and this appeal, as an indigent person, who is not having any financial means to arrange an artificial limb. In these circumstances, it will be in the interest of justice, that a reasonable amount is awarded to the plaintiff under this head, so that he can afford an artificial limb.

79. The plaintiff has also filed the cash memos of medicine purchased amounting to Rs.4,191.60, prescription of the doctors and discharge summary of S.N.Medical College,Agra, as such, it will be appropriate to award ₹ 5,000/- to the plaintiff towards medical expenses incurred by his family for his treatment. In view of the above facts and applicable legal principles, the compensation payable to the plaintiff is determined as under:-

<b>S.No.</b>	<b>Compensation Head</b>	<b>Amount Awarded (in Rs.)</b>	<b>In Accordance with</b>
1.	Monthly income of the injured plaintiff on the basis of minimum wages of skilled workman	3,000/-	<b>Kajal</b> (supra), <b>Master Ayush</b> (supra), <b>Baby Sakshi Greola</b> (supra) and <b>Hitesh Nagjibhai Patel</b> (supra)
2.	Annual income of the injured plaintiff	3,000X12= 36,000/-	<b>Kajal</b> (supra), <b>Master Ayush</b> (supra), <b>Baby Sakshi Greola</b> (supra) and <b>Hitesh Nagjibhai Patel</b> (supra)
3.	Add future prospects @40% since injured plaintiff was about 7 years on the date of the accident.	36,000 X 40%=14,400/-	<b>Pranay Sethi</b> (supra), <b>Pappu Deo Yadav</b> (supra) and <b>Sidram</b> (supra)
4.	Total annual loss	36,000+14,400=	<b>Pranay Sethi</b>

	of future income	50,400/-	(supra), <b>Pappu Deo Yadav</b> (supra) and <b>Sidram</b> (supra)
5.	Multiplier applied since age of the injured/claimant was 7 years on the date of accident	18	<b>Pranay Sethi</b> (supra)
6.	Total future loss of income due to 100% functional disability	50,400 X 18= 9,07,200/-	<b>Pranay Sethi</b> (supra) and <b>Raj Kumar</b> (supra)
7.	Special Diet and Transportation Expenses	10,000/-	<b>Hitesh Nagjibhai Patel</b> (supra)
8.	Treatment Expenses	5,000/-	
9.	Attendant Expenses (1 attendant)	2,500+1,000(40 % of 2,500)=3,500X12X18=7,56,000/-	<b>Rahul Ganpatrao Sable</b> (supra) and <b>Kajal</b> (supra)
10.	Compensation towards pain, suffering and loss of amenities	5,00,000/-	<b>Kajal</b> (supra)
11.	Loss of marriage prospects	3,00,000/-	<b>Kajal</b> (supra) and <b>Hitesh Nagjibhai Patel</b> (supra)
12.	Future medical expenses for artificial limb	3,00,000/-	<b>Hitesh Nagjibhai Patel</b> (supra)
13.	Loss of income of his parents and family members during his treatment (4 months)	3,000X4= 12,000/-	<b>Kajal</b> (supra)
14.	Total compensation	27,90,000/-	-

15.	Less compensation received earlier from the defendant	1,25,000/-	-
16.	Net compensation to be paid by defendant	27,90,000- 1,25,000= 26,65,000/-	-

80. In this way, the plaintiff is entitled to total compensation of ₹ 26,65,000/- for the injuries suffered by him due to electrocution from the transformer of the defendant. He is also entitled to pendentelite and future interest on the above compensation @ 6% per annum, from the date of filing of the misc.case as indigent person i.e. 30.5.1997 till realisation from the defendant.

81. For the aforesaid reasons, the trial court has erred in dismissing the plaintiff 's suit, which is legally unsustainable and is liable to be set aside.

82. **Accordingly, the appeal is allowed with costs throughout.** The impugned judgment and decree dated 29.10.2005 in O.S. no.171 of 2003 is set aside and the plaintiff 's suit is decreed for the following reliefs :-

(i)The plaintiff is entitled to a sum of ₹ 26.65 lakhs as compensation for the injuries suffered by him, along with pendentelite and future interest @ 6% per annum from the date of filing of the miscellaneous case i.e.30.5.1997, till its realisation from the defendant.

(ii)The plaintiff is also entitled to the costs of the suit and the appeal, including the court fees payable in the suit and the appeal, from the defendant.

(iii)The defendant is directed to pay the above amount within a period of **one month** from today, failing which, the plaintiff is at liberty to initiate execution proceedings against the defendant for realisation of the decretal amount.

(iv)Since the plaintiff is permanently disabled and dependent on others, the compensation realised from the defendant along with interest, will be deposited by the trial court in a fixed deposit account of any nationalised bank or post office, bearing maximum **monthly interest**, which the plaintiff will be able to draw every month for his livelihood. Without the permission of the court, the plaintiff will not be able to withdraw any amount from the fixed deposit. Of course, for medical treatment and other special circumstances, the plaintiff is

permitted to withdraw the amount from the fixed deposit, but with the permission of the trial court.

(v) Since the plaintiff is illiterate and poor, for executing the decree, he can take assistance of the concerned District Legal Service Authority. The concerned District Judge is directed to assist the plaintiff in this matter, so that, he may not be fleeced, for reaping the fruits of the decree.

83. Office is directed to send back the record of the trial court.

**Order Date:-15.04.2026**

Jitendra/Himanshu/Mayank

**(Sandeep Jain, J.)**