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 Decided on : 15.02.2020
 Duration : Y. M. Days.
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IN THE COURT OF THE CIVIL JUDGE SENIOR DIVISION,
MAJALGAON.

(Presided over by Smt. Surekha R.Gaikwad)

Spl.Civil Suit No.1 of 2018

Exh.No.

C.N.R.No.MHBI08001541-2017

1. **Laxmi @ Chhaya W/o Bankat Kendre,**
age- 35 years, occ.- Agriculture
2. **Sukhdeo S/o Kisan Kendre,**
age- 65 years, occ.- Agriculture,
3. **Dnyaneshwar S/o Bankat Kendre,**
age- 20 years, occ.- Education,
4. **Sachin S/o Bankat Kendre,**
age- 18 years, occ.- Education,
All resident of – Kuppa,
Tal.Wadwani, Dist.Majalgaon.

.. Plaintiffs.

V e r s u s

1. **MSEDC Limited, State of Maharashtra**
through Superintendent Engineer,
MSEDC Ltd, Circle Office, Near
Compound of pole factory, Jalna Road, Beed.
2. **Executive Engineer,**
33 K.V. Substation area, Main Road,
Ambajogai, Tq. Ambajogai, Dist. Beed.
3. **Deputy Executive Engineer,**
Sub Division MSEDC Ltd. Telgaon
(Unit Office Telgaon), Tq. Dharur, Dist. Beed.
4. **Lineman,**
MSEDC Ltd, Kuppa, Tq. Wadwani, Dist. Beed.

.Defendants.

Ld.Advocate for the plaintiffs	:-	S. R. Acharya.
Ld.Advocate for defendant No.1 to 3	:-	M. H. Inamdar
Defendant No.4.	:-	Exparte

JUDGMENT

(Pronounced in open court on this 15th day of February, 2020)

By way of present suit plaintiffs are claiming compensation of Rs.11,00,000/- from the defendants Maharashtra State Electricity Distribution Co. Ltd., as deceased Bankat Sukhdeo Kendre died due to electric shock leakage in the stay wire.

2. Facts of the plaintiffs case in short are as under :-

Plaintiff no. 1 is wife of deceased Bankat Sukhdeo Kendre (here-in-after referred as “*deceased*” for the sake of brevity) and mother of plaintiff No.3 and 4. Plaintiff No.2 is father of the deceased. Plaintiff No.3 and 4 are the sons of deceased. Defendant No.1 to 4 are the Superintendent Engineer, Executive Engineer, Deputy Executive Engineer and Lineman representing Maharashtra State Electricity Distribution Co. Ltd. (Here-in-after referred as “*defendants*” for the sake of brevity).

3. According to plaintiffs deceased was owner and possessor of the land Block No.16 situated at village Kuppa, Tq. Wadwani, Dist. Beed. On the boundary of Block No.16 there was electric pole with stay wire. On dated 10.12.2016 at about 9:00 a.m. deceased was grazing his Ox at the side of his field. When the deceased was passing from the stay wire as there was electric power leakage he sustained electric shock. The deceased sustained grievous burn injuries to his head, hand, chest and on the other parts of his body. When he

shouted his wife, son and brother namely Prakash Eknath Kendre came to the spot of incident. They shifted deceased to Vivekanand Hospital, Beed for treatment.

4. Defendant No.2 Executive Engineer informed defendant No.4 Lineman of village Kuppa and defendant No.3 Deputy Executive Engineer, Telgaon about the incident. Defendant No.3 and 4 visited the spot of incident. Plaintiff No.3 informed police station, Wadwani in respect of the incident. During this period the deceased was treated at Vivekananad Hospital, Beed where they incurred an amount of Rs.3,00,000/- (in words rupees Three lacs only) for treatment. But as the deceased was in critical condition he succumbed to the injuries on 11.1.2017 at about 10:00 pm at Civil Hospital, Beed. The inquest panchanama was carried out. The Postmortem of the deceased was done in the Civil Hospital on 12.1.2017. The Doctor has given opinion that the deceased died due to electric shock.

5. On 12.1.2017 cousin brother of deceased Prakash Eknath Kendre lodged report against the defendants at police station Wadwani. Police registered A.D. No.3/2017. Due to the negligence on the part of the defendants the deceased lost his life. It is the duty of the defendants to keep watch on leakage or any defect to prevent mishaps out of electric shock. Defendants failed to perform their duty properly. Deceased was Karta of the family. All the plaintiffs were dependent on him. Deceased was agriculturist and was also doing labour work. He was earning Rs.300/- per day, as such Rs.9000/- per month. Even if 1/3rd amount for his own expenses is deducted it comes to Rs.6000/-. As such the total income of the deceased comes

to Rs.72000/- per year. The age of deceased at the time of incident was 44 years old. Hence if multiplier of 15 is applied his income comes to Rs.10,80,000/-. The loss of earning plus medical expenses Rs.3,00,000/-, funeral expenses Rs.20,000/-. The total comes to Rs.14,00,000/-. But the plaintiffs have restricted the claim only to Rs.11,00,000/-.

6. Plaintiffs had sent notice to the defendants on dated 5.6.2017 and 18.11.2017 to pay the compensation jointly and severally, but defendants sent false reply on 19.9.2017. As such cause of action arose on 19.9.2017 to file the present case. Thus, plaintiffs prayed to decree the suit with costs.

7. Defendant No.3 resisted the claim by filing written statement vide Exh.16. Defendant No.1 and 2 adopted the written statement of defendant No.3. Whereas though defendant No.4 was served with the suit summons he failed to appear and answer the claim. Hence matter proceeded ex-parte against defendant No.4.

8. According to defendant No.1 to 3 the real facts are as under :-

These defendants resisted the claim as wrong, denied for want of knowledge in toto. As per these defendants nobody had filed any application to their office about the incident. Therefore they have no knowledge of the incident. Defendants got the knowledge of the incident after service of the suit summons. Plaintiffs never sent demand notice to these defendants. The deceased was admitted in hospital for about one month, but in this mean time also the defendants were not informed about the incident.

9. According to these defendants deceased was using electric motor for his agricultural work and had taken connection from the electric pole near his field. However the wire from the pole was disconnected. Deceased had no knowledge of this fact and he was without electric work knowledge joining the wire with the electric pole. At the time of reconnection he sustained electric shock. Deceased sustained electric shock due to his own negligence and fault. Thus defendants have no concern with the electrocution of deceased. The tension and stay insulator on the said pole where from the wire of electric motor of deceased was disconnected. It is possible that it might have been broken after the alleged incident. There was no maintenance of said stay set and there was no electric supply. If one sustained shock of L.T line, no shock is flashed over or burn injury is not caused to said person. Deceased was negligent therefore defendants are not responsible for paying the compensation.

10. In such matter inspection of electrical inspector and his findings are essential to see the electric fault at the time of incident or whether MSEDCL is responsible for the incident. In this matter plaintiffs have not claimed any inspection from electrical inspector or his findings or such inspection report is also not filed with the suit. Plaintiffs have applied wrong and incorrect multiplier which is not applicable. They have shown false income of the deceased. Plaintiffs have filed this suit against these defendants only to extract money. The suit is false, frivolous hence liable to be dismissed with costs.

11. Issues are framed at Exh.25.

12. **Evidence tendered :-** On behalf of plaintiffs three witnesses are examined. P.W.1 Laxmi @ Chhaya Bankat Kendre (Plaintiff No.1) (here-in-after referred as “***PW-1 Laxmi @ Chhaya***” for short) adduced her examination-in-chief on affidavit at Exh.26. P.W.2 Prakash Eknath Kendre (cousin brother of deceased) (here-in-after referred as “***PW-2 Prakash***” for short) filed his examination-in-chief on affidavit vide Exh.37. P.W.3 Bramhanath Gorkshnath Ubale (investigation officer of A.D. No.3/2017) (here-in-after referred as “***PW-3 I.O.***” for short) is examined vide Exh.44. Plaintiffs have filed on record documentary evidence also, it would be discussed in the reasoning wherever relevant.

13. On the other hand on behalf of defendants only one witness is examined. D.W.1 Kunal Nandkumar Pensalwar (defendant No.3) (here-in-after referred as “***D.W.1***” for sake of brevity) filed his examination-in-chief on affidavit vide Exh.50.

14. Heard, Ld. Adv. S.R. Acharya for the plaintiffs. Ld. Adv. M. H. Inamdar filed written notes of arguments vide Exh.53. Perused the written notes of arguments filed by Ld. Adv. for defendants.

15. Following issues arise for my determination. Findings are given against each for the reasons thereon :-

<u>Sr.No.</u>	<u>Issues</u>	<u>Findings</u>
1.	Do plaintiffs prove that they are legal heirs of deceased ?	In affirmative..
2.	Do plaintiffs prove that deceased died due to electric shock and due to negligence of defendants ?	In affirmative..

3	Do defendant No.1 to 4 prove that deceased sustained electric shock due his own negligence and fault ?	In negative..
4.	Do plaintiffs prove that they are entitled for compensation of Rs.11,00,000/- from defendants as claimed ?	Partly allowed.
5	Are plaintiffs entitled for the reliefs claimed?	Plaintiffs are entitled for compensation of Rs.10,28,000/- with interest @ 9.5% p.a..
6.	What order and decree ?	Suit is partly decreed with cost..

REASONS

Issue No.1 :-

16. PW 1 Laxmi @ Chhaya in her examination-in-chief on affidavit at Exh.26 reiterated same facts as that of the plaint. She contended that deceased was the owner and possessor of the land in Block No.16 situated at village Kuppa, Tq. Wadwani, Dist. Beed. She repeated that on 10.12.2016 when the deceased was grazing Ox on the boundary of the field. He sustained shock of the stay wire of the electric pole. He lost his life due to the electric shock and due to the injuries sustained by it. She contented that she and plaintiff No.2 to 4 are the legal heirs of the deceased. In support of her contention PW.1 Laxmi @ Chhaya filed on record the certified copy of 7/12 extract Exh.33 of Block No.16. Upon perusing the 7/12 extract it reveals that deceased owned and possessed 1H. 16R land in his name. The 7/12 extract also shown names of plaintiff, plaintiff No.3 and 4.

17. On the basis of above documentary evidence in the form of 7/12 extract Exh.33 it is clear that, deceased owned and possessed land in Block No.16 at village Kuppa. Defendants have not denied the fact that deceased died due to electrocution. Their defence is only that the deceased died due to his own negligence and fault. Plaintiffs have also filed on record the copies of MLC, spot panchanama Exh.45, inquest panchanama Exh.46, Postmortem report Exh.39 vide list of document Exh.4. It is crystal clear that the deceased died due to electrocution. Plaintiffs have established the fact they are the only legal heirs of the deceased by way of documentary evidence 7/12 extract. Though the defendants denied this fact for want of knowledge they have failed to bring on record contrary material against the contentions of the plaintiffs. Therefore I hold that plaintiffs have proved this issue. Thus it is answered in affirmative.

Issue No.2 :-

18. PW-1 Laxmi @ Chhaya and PW-2 Prakash are the eye witnesses of the incident. PW-1 Laxmi @ Chhaya in her examination-in-chief at Exh.26 reiterated the fact that the incident occurred on dated 10.12.2016 when her husband was grazing Ox on the boundary of their field. At the time of incident she was doing agricultural work in their field. She saw that the deceased shouted as he sustained current of stay wire of the electric pole. Due to the shock deceased fall down he sustained injuries to his head, hand, chest and other parts of his body. His body was burnt due to shock. She contended that as the deceased shouted her brother-in-law PW-2 Prakash and their son Dnyaneshwar (plaintiff No.3) rushed to spot of incident. All

of them moved the deceased to Beed for treatment.

19. PW-2 Prakash in his examination-in-chief on affidavit at Exh.37 contended that on the date of incident on 10.12.2016 when he was working in his field nearby his brother, who was deceased was grazing his Ox in his field. There is pole and stay wire fixed in their field. When his brother deceased was grazing the Ox he got touched with the stay wire, he fall on the stay wire in which there was leakage of current. Deceased sustained heavy shock and due to it he was thrown but as his head bumped to the stone he sustained injury on the backside of his head. He also sustained current to his chest. Deceased died due to electric shock while taking treatment on 11.1.2017 at 10:00 pm. He contended that the deceased died due to the negligence on the part of the defendants. He contended that due to the friction of the electric wires the hay was burnt. Even many times birds also died due to the shock. Though this fact was intimated by them to defendant No.4. He did not pay any heed to them. As the fault was not repaired in time the deceased also died due to the shock of the stay wire. He contended that he had given complaint on 12.1.2017 at the police chowki situated in the Government hospital. He admitted the complaint and its contents which is at Exh.38.

20. During cross-examination PW-Laxmi@ Chhaya admitted that there is electric motor in their field. She deposed that there are two electric poles in their field and on the day of incident she had been in their field. She deposed that on the date of incident itself her son had given oral information to the police. She further deposed that besides police they had not intimated the incident to any Government

office. But again stated that when her husband was in the hospital they had intimated about the incident to the MSEDL office. She denied that there was no current in the stay wires of the electric poles as they were fixed with the insulator. She specifically denied the contentions of the defendants that her husband had no experience of electrical work as he was joining the wire of the electric motor which was already disconnected. He sustained the electric shock and as such the incident occurred. She denied the suggestions given on behalf of the defendants.

21. Upon perusing the evidence of PW-1 Laxmi @ Chhaya I find that she had witnessed the incident. Therefore only she was able to take the deceased to Beed for treatment immediately. Her version that the deceased died due to electric shock is supported by the documentary evidence inquest panchanama Exh.46 and the Postmortem report Exh.39 which shows that the deceased had fall on the stay wire in which there was electric power leakage. The Doctor also in the Postmortem report has opined that the death of the deceased is caused due to electric shock. Therefore I hold that the testimony of PW-1 Laxmi @ Chhaya is trustworthy and reliable.

22. PW-2 Prakash in his cross-examination deposed that he also possessed 2 Acres 10 Gunthas land in Block No.16. In the same Block number there is land of deceased also. He admitted that in his and the deceased field there are electric poles. He admitted that there is bore in the field of the deceased and it has electric connection also. He denied that he has deposed false that when the deceased was grazing his Ox, he got touched with the electric pole wire. He

admitted that he had not given written complaint to the defendants office in respect of friction of the electric wires on the spot of incident and due to it the hay was burnt and some birds also died. He denied the suggestion that when the incident was occurred he was not present on the spot of the incident, therefore he do not know how the incident occurred.

23. Considering the evidence of PW-2 Prakash I hold that his version is also supported by the documentary evidence as he had given the written complaint on 12.1.2017 about the incident at police chowki, Beed situated in the Civil Hospital. He proved the complaint at Exh.38. He has denied the suggestions given on behalf of the defendants that he was not present on the spot when the incident occurred. Here it is pertinent to note that suggestion denied is no evidence. PW-2 Prakash in his complaint also contended that on the date of incident the deceased was grazing his Ox on the boundary of his field. He fall on the stay wire of the electric pole and due to it sustained electric shock and injuries. Deceased died due to electric shock. In view of above evidence of PW-2 Prakash it is crystal clear that the deceased died due to electric shock of the stay wire in which there was leakage of electric power. Hence I hold that testimony of PW-2 Prakash is trustworthy, reliable and supporting the case of the plaintiffs.

24. Plaintiffs have examined PW-3 I.O. at Exh.44 who deposed that on 26.1.2017 when he was attached to Wadwani Police Station the P.I. handed over him investigation of A.D. No.3/2017. After perusing the documents he went to the spot of incident where

he had called the two panchas and in their presence he prepared the spot panchanama. He admitted the contents, his and the panchas' signatures over the spot pananchanama. Spot panchanama Exh.45 is duly proved by PW-3 I.O. He also admitted the inquest panchanama Exh.46. He clearly deposed that in the investigation he found that the deceased died due to electrical shock.

25. During cross-examination he deposed that on 26.1.2017 he got the statement of PW-2 Prakash given at the police chowki, Beed. This witness was asked by the defence the distance between the field of the deceased and the D.P, the direction of the D.P, from the field of the deceased, how many farmers were given the electric supply from the said D.P. and the electric pole number in the field of the deceased. The witness PW-3 I.O. answered these questions as he could not state the same. But he admitted that in the field of the deceased there was one electric pole. He could not state besides this there was other electric pole or not. He deposed four boundaries of the spot of the incident. He admitted that on the spot of incident there is stay wire to the electric pole but same did not contained electricity supply. He denied the suggestion that he had not prepared the spot panchanama by visiting the spot of incident.

26. Upon considering the above evidence of PW-3 I.O. and the spot panchanama at Exh.45 it clearly reveals that PW-3 I.O. had visited the spot of incident therefore only he had stated the four boundaries of the spot of incident and the electric pole therein. He had also deposed about the stay wire and at the time of preparing the spot panchanama as it was not having electric supply.

27. It is the case of the defendants that the wire of the electric motor of the deceased was already loosen and without this knowledge the deceased was joining the wire to the electric pole without having the electric work knowledge. At the time of joining the wire he sustained electric shock due to his own negligence. This defence of the defendants seems to be taken from the sketch in the spot panchanama Exh.45 which shows two wires being attached to the electric pole from the bore. However though the defendants have taken this defence on the basis of sketch made by PW-3 I.O. P.W.3 I.O. has himself not uttered a single word on this aspect nor suggestions were given by the defendants as at the time of joining of the wire of the motor to the electric pole the deceased sustained electric shock. Thus I hold that the defence of the defendants seems to be based on the sketch map in spot panchanama Exh.45. However same is not proved by them through the testimony of P.W.3 I.O. Thus in view of above discussion I hold that the evidence of P.W.3 I.O. is reliable.

28. Thus I hold that the plaintiffs have proved the fact that the deceased died due to electric shock. Plaintiffs have alleged that the deceased died due to negligence on the part of the defendants. On the other hand the defendants are claiming that the deceased died due to his own negligence and fault. However to establish this fact besides bear words of the defendants there is no cogent evidence to substantiate their version.

29. Here it is necessary to mention that, though the defendant have denied the responsibility of the death of the deceased by their

fault. In the case of *M.C.Mehta vs. Union of India, AIR 1987 SC 1986* Considering the case of *Rylands vs. Fletcher, 1868 (3) HL 330* the Hon'ble Supreme Court held that, an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non delegable duty to the community to ensure that, no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to burden an obligation to provide that, the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activities, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that, it had taken all reasonable care and that the harm occurred without any negligence on its part.

30. The above finding is reiterated by the Hon'ble Supreme Court in the case of *Indian Council for Enviro-legal action vs. Union of India, AIR 1996 SC 1446*. The Hon'ble Supreme Court in the case of *M.P.Electricity Board vs. Shail Kumari,(2002)2 SCC 162* in para-8 observed as, 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 persons is known, in law as “strict liability”. It defers 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.

31. Therefore I hold that it is proved that the deceased died due to electric shock because of the negligence on the part of the defendants. Hence I answer this issue in affirmative.

Issue No.3 :-

32. It is contention of the defendants that the deceased sustained electric shock due to his own negligence and fault. To substantiate this fact defendants examined D.W.1. D.W.1 in his examination-in-chief denied the case of the plaintiffs and reiterated that the deceased was using electric motor for his field and he had taken its connection from the adjoining pole. The wire of the pole was broken, deceased was not having knowledge of electric work instead of it he was joining the wire with the service wire therefore he sustained shock. As such the defendants are not responsible for the deceased negligence. Plaintiffs had not intimated their office nor they received any notice from them. Therefore they had no knowledge of

the incident.

33. However D.W.1 in his cross-examination deposed that one Chavan was working as the Assistant Engineer at Telgaon. When the notice reply was shown to D.W.1 he admitted that it bears signature of Chavan who had replied the plaintiffs notice. He admitted the notice reply at Exh.51. He also admitted that in the notice reply Exh.51 their company had admitted that in Block No.16 there is stay insulator. He has no record to show that the stay insulator was repaired before the incident. He also admitted that the plaintiffs had sent notice to their office claiming compensation. He admitted the notice issued by the plaintiffs to their office at Exh.28. He also admitted that when the incident is intimated to their office they intimate the electric inspector who is appointed by the Government. He admitted that he has not visited the spot of incident. He has further denied suggestions given on behalf of the plaintiffs.&

34. Upon perusing the evidence of D.W.1 I find that in the written statement the defendants have contented that the electric motor which the deceased was using its wire was loosen and the deceased had no knowledge of it and in spite of it he was joining the wire with the electric pole wire. While joining the wire he sustained the electric shock. In the examination-in-chief D.W. 1 has contended that the electric pole wire was loosen. I find material contradiction in this version as to electric motor wire and the electric pole wire mentioned by the defendants themselves being loosen. Therefore I find that the contention of D.W.1 in respect of electric motor wire and electric pole wire being loosen is not reliable. D.W.1 has admitted the

notice being issued by the plaintiffs and the reply given by their office. Therefore the contention of the defendants that they had no knowledge of the incident falsifies. Defendants have failed to disclose source of knowledge as stated by them in respect of the incident of shock sustained by the deceased. D.W.1 has also admitted that he has not visited the spot of incident. In such circumstances it is crystal clear that the defence of the defendants is imaginary only taken to avoid responsibility of payment of compensation. Therefore I hold that the evidence of D.W.1 is not reliable. Hence I answer this issue in the negative.

Issue No.4 :-

35. Plaintiffs have claimed that the age of the deceased at the time of his death was 40 years old. However, plaintiffs have not produced on record any reliable documentary evidence to show the exact age of the deceased. However the postmortem report Exh.39 prepared by Medical Officer, District Hospital, Beed is the only documentary evidence which can be considered for ascertaining the age of the deceased. In the postmortem report the age of the deceased is shown as 45 years.

36. The cases of death by electric shock being actionable tort, come within the purview of Fatal Accidents Act, 1855 and are accordingly governed. But, the Fatal Accidents Act, 1855 does not prescribe any mode nor does it lay down any method of calculation of compensation to be awarded. Thus, the quantum of compensation is determined by applying as far as possible the general principle of restitution integrum i.e. but, only with reference to peculiar loss. The

Hon'ble Supreme Court in the case of Sarla Verma vs. Delhi Transport Corp. & anr.,(2009)6 SCC 121 has provided the multipliers for certain ages for the purpose of computation of just and reasonable compensation. The age of the deceased at the time of his death was 45 years as per the Postmortem report Exh.33. Plaintiffs have claimed that the deceased by cultivating his own land and by doing labour work was earning Rs.9000/- per month. The Hon'ble Supreme Court in the case of Sarla Devi Supra has also laid down the multipliers to be used by (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

37. Therefore the multiplier to be applied in the present case is 14 as the deceased was 45 years old. Deceased was earning Rs.9000/- per month. Defendants failed to bring on record contrary material in respect of the income of the deceased. The deceased was married, as such 1/3rd income deducted for his personal and living expenses. Therefore, deducting 1/3rd income out of the total income Rs.9000/- per month comes to Rs.6000/- per month. Thus, the compensation amount can be calculated as under :-

$$6000 \times 12 \times 14 = 10,08,000/-$$

Further, towards loss of consortium and funeral expenses an amount

of Rs.20,000/- would be just and proper. As such the total compensation would be Rs.10,08000/- + 20,000/- = 10,28000/-.

38. Plaintiffs are the legal heirs of the deceased. Plaintiffs have claimed 15% interest from the date of suit till realization of the amount. But, I find this rate of interest claimed by the plaintiffs as excessive. In my opinion rate of interest on this amount would be just @ 9.5% p.a. Plaintiffs are entitled for cost of the suit also. However, I find that, the amount of Rs.11,00,000/- as claimed by the plaintiffs cannot be awarded, in view of the findings and calculations above. Hence I answer issue no.4 as partly allowed.

Issues No.5 & 6 :-

39. In the totality of above discussion, I sum up that, the claim of the plaintiffs deserves to be partly allowed with cost and at the interest rate of 9.5% p.a. from the date of filing of the suit till realization. Hence, issue no.5 is answered accordingly and in answer to issues no.6, I pass following order.

O R D E R

1. Suit is partly allowed with cost.
2. Defendants shall jointly and severally pay plaintiff No.1 to 4 an amount of Rs.10,28,000/- (In words rupees Ten lacs twenty eight thousand only) alongwith interest @ 9.5% p.a. from the date of filing of the suit till realization of the amount.

Date :-15.02.2020

(Smt.Surekh R.Gaikwad)
Civil Judge Senior Division,
Majalgaon.