IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1079 of 2019

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CHIEF ENGINEER PASCHIM GUJARAT VIJ COMPANY LTD & ORS.
Versus
JHANJIBEN NAGABHAI GOJIYA & ORS.
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Appearance:
MR RITURAJ M MEENA(3224) for the Appellant(s) No. 1,2,3
MR GM AMIN(124) for the Defendant(s) No. 1,2,3
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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 17/08/2026

JUDGMENT

1. By way of filing present First Appeal u/s 96 of the Code of Civil Procedure, 1908 (in short “the Code”), the appellant –Paschim Gujarat Vij Company Limited (in short “the PGVCL”) challenges judgment and decree dated 4.12.2018 passed by the learned Principal Senior Civil Judge, Jamkhambhalia, whereby the learned trial Court has partly decreed the Special Civil Suit No.6 of 2014 and directed the PGVCL to pay Rs.9,85,000/- with interest at the rate of 9% per annum from the date of filing of the suit till realization.

2. For the sake of convenience and brevity, parties are referred to as per their original status before the learned trial Court.

3. Briefly stated facts of the case are that, on 1.9.2013, the deceased was at his agricultural field and doing

agricultural operation and at that time, he came in contact with earthing wire, lying uninsulated on the field of the deceased, due to which he was electrocuted and received serious injuries and later on, succumbed to the burn injuries.

3.1 Claiming the aforesaid incident as absolute negligency on the part of the PGVCL, the plaintiff has prayed for compensation for her husband to the tune of Rs.10,00,000/- with interest.

3.2 The defendant PGVCL having been served, appeared through learned advocate and mainly submitted that the incident took place due to sole negligency of the deceased. It is the deceased who is required to take necessary care to avoid the mishap. Rest of the pleadings are also denied by the PGVCL**.**

3.3 The learned trial Court framed following issues at Exh.14:-

> *"1 Whether plaintiffs prove that there is a transformer of defendants company in the farm (vadi) of plaintiff ?*
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> *2. Whether plaintiffs prove that due to negligence of defendants side there was a open current of power flowing in earthing wire of transformer situated at: plaintiff's farm (vadi) on 01-09-2013 ?*
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> *3. Whether plaintiffs prove that late Nagabahi chanabhai Gojiya working in their farm (vadi) on 01-09-2013 and due to touching earthing wire, he got electric shock and as a result of electric shock his*

clothes were burned and he was also injured at side of the body (padkha) along with leg part and as a result of incident, he died ?

4. Whether plaintiffs prove that at the time of incident late Nagabhai Chanabhai was age of 44 and he was earning Rs.3,00,000/- per year from farming and labouring after subtracting expenses and he was capable for earthing more income in future ?

5. Whether defendants company prove that they had installed earthing wire in plaintiffs' farm (vadi) after taking necessary steps for not harming to any person, animal or bird ?

6. Whether defendants company prove that there was not singnificant evidence of shock, spark, in earthing wire there was no power leakage and pipe was not burned due to electric shock circuit and insulator of the wire was intact ?

7. Whether defendants company prove that there was no negligence at their side for the said incident ?

8. Whether plaintiff proves that husband of plaintiff no.(1) i.e. Nagabhai was expired due to injury of electric shock and therefore every defendants are liable to pay compensation amount of Rs.10,00,000/- to plaintiffs ?

9. Whether suit is barred by law of limitation ?

10. Whether the suit has been valued properly for the purpose of court fees ?

11. Whether plaintiff is entitled to get relief as prayed for ?

12. Whether court has jurisdiction to try this suit ?

13. What order & decree ?"

3.4 Issue Nos.1,2,3,10 and 12 are answered in affirmative. Issue Nos. 4,8,11 are answered partly in affirmative. Issue Nos.5,6,7,9 are answered in negative and Issue No.13 is answered as per the final order. Answering aforesaid issues, learned trial Court partly decreed the suit to the aforesaid extent.

3.5 Being aggrieved, the PGVCL has preferred present First Appeal.

4. Heard learned advocates for the respective parties.

5. Learned advocate Mr. Meena appearing for the PGVCL would submit that the learned trial Court has erred in assessing the compensation on higher side. Referring to para 17 and findings of issue Nos.4 and 8 to 12, he would submit that the deceased was 44 years old and was survived by only three persons, but due to inadvertent error, the learned trial Court deducted ¼ towards personal and pocket expenses. He would further submit that the learned trial Court has erred in adopting Rs.60,000/- as yearly income of the deceased in absence of any documentary evidence, in regards to income. He would further submit that the sole criteria to adopt the income of the deceased to Rs.60,000/- per annum is based upon the abstract of village form Nos.7,12 and 8A so also the

agricultural land the deceased was holding. He would further submit that in such circumstances, the learned trial Court was required to assess the compensation for supervisory loss, as after this, the agricultural land continued in name of legal heirs and continued to give yield therefrom. He would further submit that the learned trial Court therefore, committed serious error in granting compensation at Rs.9,85,000/- with 9% interest from the date of the incident till realization.

5.1 Upon above submission, learned advocate Mr. Meena prays to allow this First Appeal and to quash and set aside the impugned judgment and decree.

6. On the other hand, learned advocate Mr. GM Amin while supporting the impugned judgment and decree, would submit that the learned trial Court has assessed yearly income of the deceased of Rs.60,000/- considering the fact that the deceased was holding agricultural land in his name. He would further submit that the learned trial Court has rightly added future prospect and thus, granted total compensation of Rs.9,85,000/-, which is just and proper.

6.1 Upon above submissions, learned advocate Mr. Amin prays to dismiss the First Appeal.

7. Having heard learned advocates appearing for the parties and having gone through the R & P as well as the impugned judgment and decree, at the outset, what appears that insofar as the incident of electrocution and death of the

deceased due to electrocution pleaded and proved by the claimants is concerned, there is no dispute raised by the PGVCL and thus, this Court does not burden the judgment by reanalyzing the evidence on the issue.

8 In recent judgment of ***Karnataka Power Transmission Corporation Limited v. Rekha & Ors.***, reported in ***2026 INSC 847***, the Hon'ble Apex Court has discussed the issue of strict liability and it's applicability to case of electrocution. In the facts of the present case, the defendant witness at Exh.44, in his cross-examination, has admitted that earthing wire is installed in the transformer to prevent any short circuit. He has further admitted that if there is fault in the earthing wire, short circuit occurs. In the case on hand, the deceased died due to electrocution while came in contact with uninsulated earthing wire.

8.1 Thus, under principle of strict liability, the PGVCL is liable to pay compensation. Now, let switch to next issue that whether the learned trial Court has assessed and granted higher amount of compensation.

9. In ***Rekha (supra),*** the Hon'ble Apex Court in para 15, refers to the earlier judgment of **Raman v. Uttar Haryana Bijli Vitran Nigam Ltd., (2014) 15 SCC 1** as well as in case of **Balram Prasad v. Kunal Saha, (2014) 1 SCC 384** to hold that multiplier method cannot be applied to determine compensation in cases of electrocution. Para 15 reads as under:-

"15. On the question of yardstick of compensation, we find this Court to have observed in a two-Judge Bench decision in ***Raman v. Uttar Haryana Bijli Vitran Nigam Ltd., (2014) 15 SCC 1*** *that the multiplier method cannot be applied to determine compensation in cases of electrocution. Since the calculation paradigm as provided for in connection with the Motor Vehicles Act, 1988 is dependent on the multiplier, the scenario thereunder could not have been applied mutatis mutandis to electrocution cases, as done by the High Court in the impugned judgment. It is a matter of law that the Electricity Act 2003 does not provide for the method to calculate compensation. What it does provide is the liability of the licensee to pay compensation in certain scenarios under Section 57 thereof but does not say anything regarding the method applicable to calculating the same. This holding in Raman (supra) relies on* ***Balram Prasad v. Kunal Saha, (2014) 1 SCC 384*** *. Be that as it may, the overarching principle of just and reasonable, fair compensation would govern the calculation here as well, based on the income of the person and other related claims."*

10. It appears that the learned trial Court adopted multiplier method and after adopting income of the deceased of 44 years at Rs.60,000/- per annum, applied multiplier of 14 and added 50% future, deducted ¼ towards personal and pocket expenses, granted other amount towards compensation under the non-pecuniary head and thus, assessed the compensation of Rs.9,85,000/-. Of course, the course adopted by the learned trial Court to determine the compensation adopting multiplier method is at odds in view of settled provisions of law, but question arise that granting of compensation of Rs.9,85,000/- with interest is unjust or illegal and thereby, is excessive.

11. In **Raman (supra)**, it was a case where 5 years old boy was electrocuted on 13.11.2011 by coming in direct contact with the naked electric wire lying open on the roof of his house, he was survived with 100% permanent disability. The Hon'ble Apex Court in the aforesaid factual aspect, held that minimum at an average of Rs. 10,000/- to Rs. 15,000/- p.m. should be adopted towards the income and granted Rs.60 lakh towards compensation. Para 16 to 21 of the judgment reads as under:-

> *"16. The learned Single Judge of the High Court has awarded compensation keeping all these aspects of the matter and has applied the guiding principle of multiplier method after adverting to the case of Sarla Verma & Ors. v. Delhi Transport Corporation & Anr, (2009) 6 SCC 121. for the purpose of computation of just and reasonable compensation in favour of the appellant which method should not have been applied to the case on hand, particularly, having regard to the statutory negligence on the part of the respondents in not providing the safety measures to see that live electric wires should not fall on the roof of the building by strictly following the Rules to protect the lives of the public in the residential area. This Court in the case of Dr. Balram Prasad v. Kunal Saha, (2014) 1 SCC 384, has deviated from following the multiplier method to award just and reasonable compensation in favour of the claimant in a medical negligence case. The same principle will hold good in the case on hand too. The following case law is followed by this Court in the above referred case, the relevant paragraphs are extracted herein to award just and reasonable compensation in favour of the appellant:*
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> > *68. .... three-Judge Bench decision of this Court in Indian Medical Assn. v. V.P. Shantha, wherein this Court has categorically disagreed on this specific point in another case wherein "medical negligence" was involved. In the said decision, it has been held at para 53 that to*

deny a legitimate claim or to restrict arbitrarily the size of an award would amount to substantial injustice to the claimant.

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99. In Govind Yadav v. New India Insurance Co. Ltd. this Court at para 15 observed as under which got reiterated at SCC pp. 639-40, para 13 of Ibrahim v. Raju:

"15. In Reshma Kumari v. Madan Mohan [(2009) 13 SCC 422] this Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below:

26. The compensation which is required to be determined must be just. While the claimants are required to be compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms.

[pic]27. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of

hypotheses or guesswork may be inevitable. That may be so.

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46. In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the multiplicand this Court in Oriental Insurance Co. Ltd. v. Jashuben held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration.

47. One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect- Unfortunately, unlike other developed countries, in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration for determining the actual ground reality. No hard-and- fast rule, however, can be laid down therefor.'

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101. .... he has also strongly placed reliance upon the observations made at para 170 in Malay Kumar Ganguly's case referred to supra wherein this Court has made observations as thus: (SCC p. 282)

"170. Indisputably, grant of compensation involving an accident is within the realm of law of torts. It is based on the principle of restitutio

in integrum. The said principle provides that a person entitled to damages should, as nearly as possible, get that sum of money which would put him in the same position as he would have been if he had not sustained the wrong. (See Livingstone v. Rawyards Coal Co.)"

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103.1. In Ningamma's case, this Court has observed at para 34 which reads thus: (SCC p. 721)

"*34. ....in our considered opinion a party should not be deprived from getting 'just compensation' in case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty-bound and entitled to award 'just compensation' irrespective of the fact whether any plea in that behalf was raised by the claimant or not.*"

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112. The claimant has also placed reliance upon Nizam's Institute of Medical Sciences v. Prasanth S.Dhananka's [(2009) 2 SCC 688] case in support of his submission that if a case is made out, then the Court must not be chary of awarding adequate compensation. The relevant paragraph reads as under:

"*88. We must emphasise that the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. Sympathy for the victim does not, and should not, come in the way of making a correct assessment, but if a case is made out, the court must not be chary of awarding adequate compensation. The 'adequate compensation' that we speak of, must to some extent, be a rule of thumb measure, and as a balance has to be struck, it would be difficult to satisfy all the parties concerned.*"

***17**. Further in para 119, it is held*

"119...this Court has rejected the use of multiplier system to calculate and award the quantum of compensation which must be just and reasonable. The relevant paragraph is quoted hereunder: (SCC para 92)

"92. Mr Tandale, the learned counsel for the respondent has, further submitted that the proper method for determining compensation would be the multiplier method. We find absolutely no merit in this plea. The kind of damage that the complainant has suffered, the expenditure that he has incurred and is likely to incur in the future and the possibility that his [pic]rise in his chosen field would now be restricted, are matters which cannot be taken care of under the multiplier method."

(emphasis supplied)

***18**. Further under paragraph No. 121, the relevant paragraph from United India Insurance Co. Ltd. v. Patricia Jean Mahajan read as under: (SCC pp. 295-96, paras 20)*

"20. The court cannot be totally oblivious to the realities. The Second Schedule while prescribing the multiplier, had maximum income of Rs 40,000 p.a. in mind, but it is considered to be a safe guide for applying the prescribed multiplier in cases of higher income also but in cases where the gap in income is so wide as in the present case income is 2,26,297 dollars, in such a situation, it cannot be said that some deviation in the multiplier would be impermissible. Therefore, a deviation from applying the multiplier as provided in the Second Schedule may have to be made in this case. Apart from factors indicated earlier the amount of multiplicand also becomes a factor to be taken into account which in this case comes to 2,26,297 dollars, that is to say, an amount of around Rs 68 lakhs per annum by converting it at the rate of Rs 30. By Indian standards

it is certainly a high amount. Therefore, for the purposes of fair compensation, a lesser multiplier can be applied to a heavy amount of multiplicand. A deviation would be reasonably permissible in the figure of multiplier even according to the observations made in Susamma Thomas where a specific example was given about a person dying at the age of 45 leaving no heirs being a bachelor except his parents."

***19**. Further, in paragraph 177, it was held as under:-*

"177. Under the heading of loss due to pain and suffering and loss of amenities of the wife of the claimant, Kemp and Kemp write as under:

"The award to a plaintiff of damages under the head "pain and suffering" depends as Lord Scarman said in Lim Poh Choo v. Camden and Islington Area health Authority, "upon the claimant's personal awareness of pain, her capacity of suffering. Accordingly, no award is appropriate if and in so far as the claimant has not suffered and is not likely to suffer pain, and has not endured and is not likely to endure suffering, for example, because he was rendered immediately and permanently unconscious in the accident. By contrast, an award of damages in respect of loss of amenities is appropriate whenever there is in fact such a loss regardless of the claimant's awareness of the loss."

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'Even though the claimant may die from his injuries shortly after the accident, the evidence may justify an award under this head. Shock should also be taken account of as an ingredient of pain and suffering and the claimant's particular circumstances may well be highly relevant to the extent of her suffering. ....'

By considering the nature of amenities lost and the injury and pain in the particular case, the court must assess the effect upon the particular claimant. In deciding the appropriate award of damages, an important consideration show long will he be *deprived of those amenities and how long the pain and suffering has been and will be endured. If it is for the rest of his life the court will need to take into account in assessing damages the claimant's age and his expectation in life.......*"

20. *Further, in the case of Rekha Jain v. National Insurance Co. Ltd.(2013) 8 SCC 389 this Court at paras 34 and 35, with regard to the quantum of damages, has held as under:*

> "*34...........In deciding on the quantum of damages to be paid to a person for the personal injuries suffered by him, the Court is bound to ascertain all considerations which will make good to the sufferer of the injuries, as far as money can do, the loss which he has suffered as a natural consequence of the wrong done to him. [K. Narasimha Murthy vs. the Manager, Oriental Insurance Company Limited and Anr.]. [ILR 2004 KAR 2471]*
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> *35.........Therefore, the general principle which should govern the assessment of damages in personal injury cases is that the Court should award to injured person such a sum of money as will put him in the same position as he would have been in if he had not sustained the injuries. But, it is manifest that no award of money can possibly compensate an injured man and renew a shattered human frame.*"
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> *39.....In Mediana, in re [1900 AC 113 (HL)], it is held at para 32 which is extracted as herein '......... 32....In personal injury cases, the Court is constantly required to form an estimate of chances and risks which cannot be determined with precision. It is because, the law will disregard possibilities which are slight or chances which are nebulous; otherwise, all the circumstances of the situation must be taken into account, whether they relate to the future which the plaintiff would have enjoyed if the accident had not happened, or to the future of*

his injuries and his earning power after the accident. Damages are compensation for an injury or loss, that is to say, the full equivalent of money so far as the nature of money admits; and difficulty or uncertainty does not prevent an assessment.' [K. Narasimha Murthy vs. the Manager, Oriental Insurance Company Limited and Anr.] [ILR 2004 KAR 2471]

In Fowler v. Grace, [(1970) 114 Sol Jo 193 (CA)] Edmund Davies, L.J., has said that:

"It is the manifest duty of the Tribunal to give as perfect a sum as was within its power'. There are many losses which cannot easily be expressed in terms of money. If a person, in an accident, loses his sight, hearing or smelling faculty or a limb, value of such deprivation cannot be assessed in terms of market value because there is no market value for the personal asset which has been lost in the accident, and there is no easy way of expressing its equivalent in terms of money."

41. McGregor on Damages (14th Edn.) at Para 1157, referring to the heads of damages in personal injury actions, states as under:

"The person physically injured may recover both for his pecuniary losses and his non-pecuniary losses. Of these the pecuniary losses themselves comprise two separate items viz. the loss of earnings and [pic]other gains which the plaintiff would have made had he not been injured and the medical and other expenses to which he is put as a result of the injury, and the courts have subdivided the non-pecuniary losses into three categories viz. pain and suffering, loss of amenities of life and loss of expectation of life.

Besides, the Court is well advised to remember that the measures of damages in all these cases 'should be such as to enable even a tortfeasor to say that he had amply atoned for his misadventure.' The observation of Lord Devlin that the proper approach to the problem or to *adopt a test as to what contemporary society would deem to be a fair sum, such as would allow the wrongdoer to 'hold up his head among his neighbours and say with their approval that he has done the fair thing', is quite apposite to be kept in mind by the Court in assessing compensation in personal injury cases.*"

(emphasis supplied)

42. In R. Venkatesh v. P. Saravanan the High Court of Karnataka while dealing with a personal injury case wherein the claimant sustained certain crushing injuries due to which his left lower limb was amputated, held that in terms of functional disability, the disability sustained by the claimant is total and 100% though only the claimant's left lower limb was amputated. In para 9 of the judgment, the Court held as under: (Kant LJ p. 415)

'*9. As a result of the amputation, the claimant had been rendered a cripple. He requires the help of crutches even for walking. He has become unfit for any kind of manual work. As he was earlier a loader doing manual work, the amputation of his left leg below the knee, has rendered him unfit for any kind of manual work. He has no education. In such cases, it is well settled that the economic and functional disability will have to be treated as total, even though the physical disability is not 100%.*'

43. Lord Reid in Baker v. Willoughby has said: (AC p. 492A)

"*... A man is not compensated for the physical injury: he is compensated for the loss which he suffers as a result of that injury. His loss is not in having a stiff leg: it is in his inability to lead a full life, his inability to enjoy those amenities which depend on freedom of movement and his inability to earn as much as he used to earn or could have earned....*"

***21**. In view of the law laid down by this Court in the above referred cases which are extensively considered and granted just and reasonable compensation, in our considered view, the compensation awarded at Rs. 60 lakhs in the judgment of the learned Single Judge of the High Court, out of which 30 lakhs were to be deposited jointly in the name of the appellant represented by his parents as natural guardian and the Chief Engineer or his nominee representing the respondent-Nigam in a nationalised Bank in a fixed deposit till he attains the age of majority, is just and proper but we have to set aside that portion of the judgment of the learned Single Judge directing that if he survives, he is permitted to withdraw the amount, otherwise the deposit amount shall be reverted back to the respondents as the same is not legal and valid for the reason that once compensation amount is awarded by the court, it should go to the claimant/appellant. Therefore, the victims/claimants are legally entitled for compensation to be awarded in their favour as per the principles/guiding factors laid down by this Court in catena of cases, particularly, in Kunal Saha's case referred to supra. Therefore, the compensation awarded by the Motor Vehicle Tribunals/Consumer Forums/State Consumer Disputes Redressal Commissions/National Consumer Disputes Redressal Commission or the High Courts would absolutely belong to such victims/claimants. If the claimants die, then the Succession Act of their respective religion would apply to succeed to such estate by the legal heirs of victims/ claimants or legal representatives as per the testamentary document if they choose to execute the will indicating their desire as to whom such estate shall go after their death. For the aforesaid reasons, we hold that portion of the direction the of the learned Single Judge contained in sub-para (v), to the effect of Rs. 30 lakhs compensation to be awarded in favour of the appellant, if he is not alive at the time he attains majority, the same shall revert back to the respondent-Nigam after paying Rs.5 lakhs to the parents of the appellant, is wholly unsustainable and*

> *is liable to be set aside. Accordingly, we set aside the same and modify the same as indicated in the operative portion of the order."*

12. In touchstone of above position of law, comparing the facts of both the cases, the Hon'ble Apex Court in case of 100% disability caused to 05 years old boy due to electrocution, assessed just and fair compensation of Rs.60 lakh. Whereas, in the present case, the learned trial Court, for death of 44 years old person, who is the sole bread earner of the family, assessed compensation of Rs.9,85,000/-, which by no means, can be considered as unjust and unfair. Therefore, argument of learned advocate Mr. Meena that excess amount has been determined by the learned trial Court, fails.

13. Moreover, in view of above and *in extenso* of principles of strict liability, the PGVCL would not be at privilege to claim negligence of the deceased in absence of proving any exceptions. Thus, the present First Appeal requires fate of dismissal.

14. Resultantly, present First Appeal fails and stands **DISMISSED**.

15. Consequently, CA, if any, does not survive and stands disposed of accordingly.

16. The amount deposited by the PGVCL before this Court shall be transmitted to the learned trial Court with

accrued interest. The PGVCL is hereby directed to deposit remaining decretal amount with accrued interest before the learned trial Court within 08 weeks from today. Upon deposit of such amount, the learned trial Court shall disburse the same to the plaintiff strictly as per rules, by transferring amount of compensation either by RTGS or by NEFT.

17. Registry is directed to return back the R & P, if any, to the concerned Court forthwith.

(J. C. DOSHI,J)

SHEKHAR P. BARVE