

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.692 of 1988 (O&M)**Date of Decision: 04.03.2015**

Surinder Singh

. . . . Appellant

VS.

Jaspal Kaur & Ors.

. . . . Respondents

CORAM: HONBLE MR.JUSTICE SURYA KANT

*1. Whether Reporters of local papers may be allowed to see the judgment?**2. To be referred to the Reporters or not?**3. Whether the judgment should be reported in the Digest?*

Present: Mr. Neeraj Khanna, Advocate for the appellants

None for the respondents

SURYA KANT J. (ORAL)

(1). This Regular Second Appeal is at the instance of defendant against whom suit for recovery of ₹1,25,000/- as damages for committing murder of Harmail Singh, was decreed in part by the Senior Sub Judge, Rupnagar vide judgement and decree dated 18.12.1986 for a sum of ₹80,000/- and whose First Appeal has been dismissed by the learned Additional District Judge, Ropar vide judgement and decree dated 10.12.1987. The respondent-plaintiffs are the widow and minor children of deceased Harmail Singh.

(2). The respondents filed the above-stated suit for damages, *inter alia*, averring that on 05.01.1983, an altercation took place in the morning at about 9.00 am between the wife of appellant and the first respondent on a trivial issue when the ball with which respondents

No.2&3 were playing fell through the adjoining house of the appellant. On that very day, at about 7.00 pm when deceased along with the first respondent was going to bring their buffaloes from the adjoining the courtyard, the appellant attacked the deceased with *gandasi* and gave a blow on the head of Harmel Singh who fell on the ground. The injured was rushed to the Civil Hospital, Ropar and from there to PGI Chandigarh where he succumbed to his injuries on 21.01.1983. The appellant was tried by the Sessions Judge, Ropar who vide judgement dated 25.10.1983 held the appellant guilty of offence under Section 302 IPC and sentenced to undergo imprisonment for life.

(3). As the only bread-earner of the family was done to death by the appellant, the respondents filed a suit for damages of ₹1,25,000/- which has been decreed to the extent of ₹80,000/- only.

(4). The appellant contested the suit, *inter alia*, claiming that he was falsely implicated and the respondents have sufficient agricultural land to earn the livelihood.

(5). The Courts below, on consideration of the documentary and oral evidence on record coupled with the finding returned by the Criminal Court, have held that the appellant committed murder of Harmel Singh. The Courts have further held that the deceased was earning at least ₹20 per day as a farm labourer. He was about 35 years of age at the time of his unnatural death and thus applying the multiplier of 16, the damages of ₹80,000/- were assessed.

(6). I have heard learned counsel for the parties and gone through the record.

(7). It is undeniable that the conviction of the appellant in the case under Section 302 IPC was upheld. In the light of the conclusive evidence to the effect that the appellant committed murder of Harmel Singh stands established.

(8). So far as the quantum of damages is concerned, the Courts below have very moderately fixed ₹20 per day as the estimated income of the deceased and then applied the multiplier of 16 keeping in view the fact that he was about 35 years' old at the time of his death.

(9). The approach of the Courts below in this regard is totally fair, just and equitable. In any case, no substantial question of law can be said to have arisen out of the above-stated pure finding of fact on both counts.

(10). Dismissed.

04.03.2015
vishal shonkar

(Surya Kant)
Judge