IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2106 of 1989

Date of Decision:-04.11.2015

Smt. Gurmel Kaur and others

.....Appellants

Versus

Gurcharan Singh and others

.....Respondents

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

Present:- Mr. J.S. Brar, Advocate
for the appellants.

None for the respondents.

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SATISH KUMAR MITTAL, J.(Oral)

This regular second appeal has been filed by the plaintiffs against the judgment and decree dated 5.6.1989 passed by the First Appellate Court whereby the suit filed by them for compensation on account of Homicidal death of Labh Singh, alleged to have been caused by the defendants, was dismissed.

Initially the plaintiffs had filed Civil Suit No.361 dated 30.10.1982 for recovery of Rs.1,00,000/- as compensation under the Fatal Accidents Act, 1855 and the said suit was partly decreed for an amount of Rs.48,000/- against the defendants. Against the said decree, the defendants filed appeal No.74 of 1986 and plaintiffs had filed cross-objections for enhancement of compensation and vide order dated 5.6.1989 the appeal was accepted and cross-objections were dismissed. Against the said order, the present regular second appeal has been filed.

Undisputedly, in this case for the occurrence in which

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homicidal death of Labh Singh was alleged to have been caused by the defendants, an FIR was registered. In the said FIR, challan was presented in the Court and the defendants were tried for the offence and convicted under Section 302/34 IPC and substantively sentenced to undergo imprisonment for life. Against the said judgment, they filed criminal appeal which was accepted by this Court and they were acquitted vide order dated July 19,1984.

In the present case, the plaintiffs examined the same witnesses who were the witnesses before the Criminal Court, to prove that the defendants have committed the murder of said Labh Singh.

Learned First Appellate Court after appreciating the testimony of those witnesses has come to the conclusion that the arguments raised on behalf of the plaintiffs that the findings of a Court on the criminal side are not binding on the civil Court notwithstanding that those findings were based on identical cause of action, cannot be accepted because the legality of this proposition may not be open to doubt or dispute. It was further held that the acquittal of the defendants in the criminal trial re-enforced the presumption of their innocence in the matter of homicidal death of Labh Singh.

Learned counsel for the appellants argued that the learned First Appellate Court has not properly appreciated the evidence and has misread the same while accepting the appeal filed by the defendants.

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After hearing learned counsel for the appellants, I do not find any such misreading of evidence. More over, the appreciation of evidence in the regular second appeal is not permissible. In my opinion, no substantial question of law is involved in this appeal. The defendants have already been acquitted by this Court and the same witnesses who have appeared in the suit had also appeared in support of the prosecution case and this Court after appreciating their evidence came to the conclusion that the prosecution has failed to prove that the defendants have committed the murder of Labh Singh.

In view of the said finding of fact, I do not find any merit in the present appeal and the same is hereby dismissed.

(SATISH KUMAR MITTAL)
JUDGE

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