

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Regular Second Appeal No.2595 of 1996
Date of Decision: 11.3.2015

Smt. Surinder Kaur ..Appellant

versus

Harjit Singh @ Bagga and others ..Respondents

CORAM: HON'BLE MR.JUSTICE RAJIVE BHALLA

Present: Mr.P.K.Gupta, Advocate, for the appellant.

Mr. B.S.Jaswal, Advocate, for the respondents

RAJIVE BHALLA, J. (ORAL)

Smt. Surinder Kaur wife of Surat Singh has filed this appeal challenging judgment and decree dated 6.6.1996 passed by the District Judge, Hoshiarpur, setting aside judgment and decree dated 1.2.1994 passed by the Senior Sub Judge, Hoshiarpur.

Counsel for the appellant submits that the respondents were convicted for the murder of her son Lakhwinder Singh and though acquitted by the High Court of the charge of murder, their conviction under section 324 of the Indian Penal Code does not absolve them of their obligation to pay compensation for the murder of Lakhwinder Singh. It is also argued that even if it is accepted that the respondents did not inflict any injury on the deceased and are, therefore, not liable to pay compensation, the judgment and decree passed by the trial court could only be set aside with respect to only those who had filed the appeal. The first appellate court has,

however, set aside the judgment and decree passed by the trial court even with respect to respondents who did not file an appeal.

Counsel for the respondents no.3 and 5 submits that the first appellate court has rightly held that the respondents are not liable to pay compensation. The respondents were initially convicted under Section 302 of the Indian Penal Code but were eventually acquitted by this court in appeal and only convicted under section 324 of the Indian Penal Code for inflicting injuries to an injured witness, namely, Satnam Singh (PW2) who has not come forward to claim compensation. The acquittal of the respondents under section 302 read with Section 34 of the Indian Penal Code, does not render them liable for payment of any compensation on account of unnatural death of Lakhwinder Singh.

I have heard counsel for the parties and perused the impugned judgments and decrees.

Admittedly, Harjinder Singh and Pargat Singh, respondents, in the present appeal, were acquitted of the charge of murder but were convicted under Section 324 of the Indian Penal Code for causing injuries to Satnam Singh, an injured witness. The first appellate court has, therefore, rightly held that Harjinder Singh and Pargat Singh are not liable to pay compensation for the death of Lakhwinder Singh. The impugned judgment and decree does not suffer from any error of jurisdiction or of law vis-a-vis Harjinder Singh and Partap Singh but while holding as above, the appellate court lost sight of the fact that the other defendants, namely, Harjinder Singh, Inderjit Singh and Tirlok Singh had not filed any appeal challenging

judgment and decree passed by the trial court. In the absence of any appeal by the other respondents, the first appellate court had no jurisdiction to set aside the judgment and decree passed by the Senior Sub Judge, Hoshiarpur, in its entirety.

Consequently, while affirming the impugned judgment and decree in so far as it relates to Harjinder Singh and Pargat Singh, it is modified to the extent that judgment and decree passed by the trial court is set aside only with respect to Harjinder Singh and Pargat Singh. No order as to costs. Decree sheet be drawn up accordingly.

11.3.2015
VK

(RAJIVE BHALLA)
JUDGE