

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1157 of 2012 (O&M)
Date of Decision.07.12.2015

Jaswant Singh and others

.....Appellants

Vs.

Gurmeet Kaur and others

.....Respondents

Present: Mr. B.S. Bhalla, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The representatives of Resham Singh were the plaintiffs who complained that on account of criminal assault made on Resham Singh, he suffered grievous injuries and died later. The defence was that Resham Singh was also responsible for scuffle that ensued between Resham Singh and the defendant party and there was a counter case also registered against Resham Singh. The criminal proceedings had gone side by side and it would appear that the criminal court originally found that the defendants' party were aggressors. However, the judgment appears to be in appeal.

2. The finding was that the death was on account of the injuries suffered and the Court has proceeded to assess the compensation at ₹2,70,000/- which was later reduced to ₹2,16,000/- in appeal.

3. The contentions raised on behalf of the counsel appearing

for the defendants-appellants are that one of the defendants who had caused the grievous injury has himself died and the prosecution of case against all others was impermissible. It is also the contention that the criminal case is still pending in Appellate Court and the characterization of the defendants' party as aggressors ought not to be, therefore, accepted.

4. The defendants ought to fail on both objections, for it is irrelevant that the person who had been said to be responsible for causing a major injury on the deceased person is now no more. If the defendants are co-assailants along with the deceased assailant, it is irrelevant that one amongst them had died. The liability cannot cease for others if they had been associating themselves with a common intent to cause injuries that resulted in death. The other argument that there is criminal case which is pending and the characterization of the defendants' party as aggressors for the criminal act ought not to be taken as final, cannot support the case of the defendants, for the Civil Court independently has come to the conclusion that the defendants' acts have contributed to the injuries which resulted ultimately in the death. Fatal Accidents Act makes possible a survival of cause of action for the legal representatives who pursue for damages for persons who are responsible for the death. All that has to be seen is whether the death was resultant to the injury caused to the person. If it was, there is no escape from the liability and it is no answer for the defendant to say that there was also a case against Resham Singh and his party and the criminal complaint had also been lodged against them. It might provide an independent cause of action for the defendants for any injury

which they had suffered against Resham Singh or his representatives to the extent to which they had the benefit of estate but the plaintiff's own action for damages cannot be defeated by any injury which any of the defendants has suffered. As of now, there was no counter claim or cross suit made on their behalf. The judgment of the Appellate Court is rested on appropriate legal reasoning and I will find no reason for interference.

5. The second appeal is dismissed as involving no substantial question of law.

(K. KANNAN)
JUDGE

December 07, 2015
Pankaj*