

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

RSA No.4727 of 2012 (O&M)
Date of Decision.01.09.2015

Arjun Singh and another

.....Appellants

Versus

Mohinder Kaur and others

.....Respondents

Present: Mr. RVS Chugh, 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 appeal is against the decree granting compensation against the appellant-defendant who had caused the death of the 1st plaintiff's husband. The deceased was 25 years of age and the Court had found that the defendant was responsible for his death by his murderous intent. The Criminal Court incidentally convicted him for offence under Section 302 IPC and it would appear that in the appeal filed by him before this Court, his sentence was modified and he was found guilty for offence under Section 304 Part II IPC.

2. The counsel for the appellant would contend that the deceased himself had been a rapist and he had been convicted for an offence under Section 376 IPC earlier for some other case and the compensation could not have been awarded to the death of such a person treating him as a person who was available for employment and who had contributed to the family. The further argument is that the

Court while modifying the conviction under Section 302 IPC in the criminal proceedings was taking note of the fact that the deceased had entered upon the house of brother of the appellant with a sexual intent and he was provoked to cause the death. I cannot find any provocation as justifying the killing unless his own act came within any general exceptions provided under the Indian Penal Code. If such a defence had been accepted, the appellant would have been even acquitted of the offence attributed to him and if he was found guilty of offence under Section 304 Part II IPC, it would only mean that the appellant had done an act which was legally unjustified.

3. The extent of reliance on the judgment of a Criminal Court or the appellate forums will be restricted only to examine whether there was a conviction or not. The outcome of the criminal court ought not to be taken as very material, for, the trial Court in a civil case can decide whether the defendant's act was the immediate or proximate cause for the plaintiff's death. If it was, then the principles available under the Fatal Accidents Act would provide for compensation to be claimed against a person who was responsible for the death. The general justification of what is now pleaded before me as sudden provocation as resulting in killing of the 1st plaintiff's husband cannot be exculpatory for the defendant and to relieve him of his obligation to pay compensation.

4. The scales of compensation have generally increased over a period of years. The wife would require to be compensated for loss of consortium and if there are children, they would require to be appropriately compensated also for loss of love and affection. Loss to estate is yet another head of claim which was perviously notional but

made a substantial head of claim through recent decisions. Here is a case where the widow was 28 years of age at the time of filing of the suit and there were two minor children, a boy aging 7 ½ years and girl aged 5 years. The mother was also a party claiming along with others as one of the plaintiffs. The trial Court had taken note of all these aspects and awarded a compensation of Rs.5,85,000/- with interest. The objection taken by the appellant is also that interest has been awarded from the date of death itself. I have noticed that the date of death was 22.05.1999 and the suit has been filed within a period of three years on 17.05.2001. A provision for interest ought to be allowable from not merely from the date of suit but from the time when the cause of action arose and if such a cause of action has arisen within a period of three years, the Court had a discretion to provide interest from the date when the cause of action arose. The determination of compensation made to the plaintiffs was justified in the manner that has been done by the two Courts below.

5. I find no scope for interference in the second appeal as involving no substantial question of law. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 01, 2015
Pankaj*