

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Regular Second Appeal No.2574 of 2013 (O&M)

Date of decision: 25.08.2015

Raju alias Gurjeet Singh and another Appellants

versus

Sarabjeet Kaur and others Respondents

II. Regular Second Appeal No.2607 of 2013(O&M)

Sarabjeet Kaur and others Appellants

versus

Raju alias Gurjeet Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Lal Singh Sandhu, Advocate,
for the appellants in RSA No.2574 of 2013 and
for the respondents in RSA No.2607 of 2013.

Mr. Ajay Jain, Advocate,
for the appellants in RSA No.2607 of 2013 and
for the respondents in RSA No.2574 of 2013.

K.Kannan, J. (Oral)

1. Both the appeals are connected and the plaintiffs' suit for compensation for death caused to the first plaintiff's husband by Resham Singh was originally dismissed. The plaintiffs were the widow and children of the deceased person, who was aged 36 years.

At the trial, the plaintiffs preferred an appeal and the plaintiffs also

relied on the fact that apart from the evidence given that the defendant alone was responsible for the death of the first plaintiff's husband Amrik Singh, the defendant was also criminally prosecuted for offence under Section 302 IPC. The court reversed the decision of the trial Court and granted a decree for ₹2,98,000/- along with interest. The defendant died during the pendency of the suit and the legal representatives had been already brought on record and the appeal has been filed against the decree of the appellate court in RSA No.2574 of 2013. The plaintiffs have preferred an appeal complaining of inadequacy of compensation in RSA No.2607 of 2013. The reference to the plaintiffs shall be with reference to the appellants in RSA No.2607 of 2013 and the reference to the defendants shall be with reference to the appellants in RSA No.2574 of 2013.

2. The learned counsel for the defendants states that the first plaintiff's husband was not earning any amount and he was living on the income and resources of the grandfather. His own death did not cause any loss to the family and the trial Court was, therefore, justified in dismissing the suit. The counsel would also state that against the judgment of the criminal court finding the defendant guilty, there was an appeal but the appeal has stood abated by the death of the defendant. He would, therefore, seek for restoration of the finding of the trial Court dismissing the suit. If the

appellate court was finding that the defendant had caused the death and also used the effect of conviction rendered by the criminal court as a corroborative piece of evidence, it was justified in doing so. The dismissal of the suit at the trial court can never be justified by an assertion that the deceased was not earning any income. Every person, who has a family, has a value to the family and in the manner of assessment of compensation, the court could never find a man to be worthless and deny any compensation to the legal representatives. The law is well laid down that not merely for tortious wrongs, even criminal offences resulting in death would leave a trail of claim for damages against the person who caused the death on the principles brought down under the Fatal Accidents Act. Even otherwise victim compensation is the norm which is recognized even under the provisions of the Criminal Procedure Code which makes possible a scheme of compensation for enforcement by the representatives of the victim in a murder case and obtain such a right against the assailant/accused. The suit was well founded and I will find no reason to entertain an appeal brought by the defendants. I would find the assessment made already is not even adequate and find that to be the reason for dismissing the appeal filed in RSA No.2574 of 2013 and admit the RSA No.2607 of 2013 on the following substantial question of law:-

Whether the assessment to compensation made by the

appellate Court grossly inadequate considering that the deceased was only 36 years of age and as a person of sound health capable of supporting a family of his wife and children who ought to have been provided for loss of consortium to the wife, loss of love and affection for the children, loss to estate and loss of contribution to the members of the family of what he was capable of earning if he had been alive?

3. The appeal in RSA No.2574 of 2013 is dismissed and the appeal in RSA No.2607 of 2013 is admitted as above.

(K.KANNAN)
JUDGE

25.08.2015
sanjeev