

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

Regular Second Appeal No.2700 of 2013 (O&M)

Date of decision:16.10.2015

Sachin Kumar Saini

... Appellant

versus

Smt. Sunita Kumari and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vipin Mahajan, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal is at the instance of second defendant against whom a decree for money for ₹3,50,000/- with interest has been granted as damages, who was said to have caused the death of the plaintiff's husband by the second defendant along with the first defendant's brother. A criminal case was registered against him and was convicted for offences under Section 302. The liability for compensation is unexceptional under the provisions of the Fatal Accidents Act.

2. The deceased was said to be 45 years of age and was said to be a caterer of food items. The court has assessed a compensation of ₹3,50,000/- for the loss of dependency of the

widow and two minor children. The amount assessed is too modest and I find no reason for interference with the same. The counsel's argument is that the court fee had not been properly paid. That was the issue which ought to have been urged at the time of trial and cannot be taken as a main point in second appeal. If it involved the issue of jurisdiction before the particular court which tried the suit, then court fee issue would have been relevant even at the stage of High Court. There is unlimited jurisdiction in civil courts in Punjab and Haryana for the court of first instance and, therefore, that was not an issue regarding competency of the Presiding Officer to decide the case. The Executing Court shall ensure that the plaintiffs had paid the court fee if not already paid and call it in the original side, collect the court fees, if there is deficiency and transfer it back to the execution court for enforcing the decree including court fee against the defendants.

3. I find no cause for interference in second appeal. It is dismissed.

(K.KANNAN)
JUDGE

16.10.2015
sanjeev