

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

RSA No. 33 of 2013 (O&M)

Date of decision : 19.3.2015

Ravinder Singh

..... Appellant

VS

Harnek Singh and others

..... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Inderpal Singh Parmar, Advocate, for the appellant.

Rajesh Bindal J.

The plaintiff, having failed in both the Courts below whereby his suit for recovery as damages on account of injuries allegedly inflicted on him by the defendants/ respondents, was dismissed, has filed the present appeal.

It was claimed by the plaintiff-appellant that on 3.8.2002 when he was present at his house in village Chak Kalan, respondent nos. 2 and 3 entered his house forcibly and attacked him. As a result of attack, he suffered grievous injuries. The appellant tried to run away but respondent no. 1 was already standing there along with certain other unidentified persons and gave *gandasa* blow on his left leg. Thereafter, all the respondents beat the appellant mercilessly. He was taken to Civil Hospital, Mullanpur, from where he was shifted to CMC, Ludhiana, where he remained admitted for 4-5 days. FIR No. 97 dated 5.8.2002 was registered against the respondents. For the injuries suffered, the suit was filed for claiming damages. The same was in the form of expenses incurred on medical treatment, special diet and loss of income, etc. The plea raised by the respondents in the written statement was that the plaintiff was the aggressor, who entered their house along with other persons and attacked them. They were admitted in hospital. False case was registered by the police against them.

To prove his claim for damages on account of alleged injuries inflicted by the respondents, the onus was on the appellant. Even though the medical bills were proved, however, to discharge the burden on him regarding the injuries, the appellant failed to produce the doctor, who examined and treated him and had prepared the MLR, which was the most important evidence. Only a Clerk from the hospital was produced, who brought the medical record which was also the photo copy of the record with no authenticity.

MLR could not be proved in the absence of the doctor, who prepared it. Though the plea was sought to be raised that the doctor concerned had left the hospital but no reliable evidence was led in support thereof. No permission was taken to lead secondary evidence to prove the injury allegedly treated and discharge slip in the absence of doctor concerned. Even though in his examination-in-chief, PW5 Tarsem Masih, Clerk from the hospital stated that he identifies the signatures of Dr. R. Mathan and Dr. Harmandeep Singh on the injury report as well as discharge slip, but in his cross-examination, the same was demolished as he stated that he had no concern with the aforesaid doctors as he never worked under them.

In the absence of unproved medical record of the injuries allegedly suffered by the appellant, in my opinion, no illegality was committed by the Courts below in dismissing the suit filed by him claiming damages. The findings recorded are pure and simple findings of fact giving rise to no question of law much less a substantial question of law. The appeal is accordingly dismissed.

19.3.2015
vs.

(Rajesh Bindal)
Judge