

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

RSA No. 1131 of 2015 (O&M)

Date of decision: August 13, 2015

Dara Singh

...Appellant

Versus

Harjeet Kaur and others

...Respondents

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?**

Present: Mr. SK Aneja, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

CM No. 3294 C of 2015

For the reasons stated in the application, delay in filing the appeal is condoned.

Main case

1. The appellant is the person confined in prison for causing the death of 1st plaintiff/husband Gurmail Singh. The suit was for damages by the legal representatives of the deceased person against the appellant and two other persons for Rs. 6 lakhs. Incidentally, the trial against the defendant ended in conviction and it appears that there is an appeal filed and pending before this Court. At the trial, the plaintiffs relied on the judgment of the criminal court as corroborative evidence and placed reliance on the testimony of the brother of the deceased who claimed to be an eye witness of the incident. The courts acted on his version and found

that the defendant was bound to make good through damages for causing the death of the 1st plaintiff's husband and assessed the compensation on the scale mentioned under the Motor Vehicle Act at Rs. 2.8 lakhs. The Appellate Court affirmed the same.

2. Learned counsel appearing on behalf of the appellant would contend that the criminal case has not come to an end and the conviction rendered by the trial court ought not have been relied upon to assess the compensation. I will find that the plaintiffs have not secured the decree only on the basis of the criminal court judgment but as I already observed it was a corroborative piece of evidence and reliance by the plaintiff was on the testimony of the eye witness of the incident. The Court found the evidence to be trustworthy and granted the decree. The counsel, therefore, adds second string of bow, as it were, and contends that the evidence of the sole testimony of the brother could not have been acted upon. I find nothing extraordinary about the fact that there was only one witness of to the incident. The intervention in the second appeal could be only if there was something perverse in the appreciation of the evidence. It is not at all times possible that a person who intends to murder another person gathers a lot of people to witness the macabre act. If the incident so happened that there was only one eye witness and the court below has relied on such evidence, I find no cause for suspicion of such evidence as untrue. Learned counsel has also an argument to make that the assessment of compensation has been made by applying the principle granted under the Motor Vehicle Act. The Fatal Accidents Act itself does not give any clue for the manner of assessment of damage and usually the principle of tort is applied. The Supreme Court has referred to the Law Commission recommended the

Parliament to bring about a new law with surer scales for determination of compensation. I find the compensation assessed at Rs. 2.8 lakhs is even less than what the Supreme Court has recently approved as an interim compensation payable under Section 302 IPC in the decision of Suresh Versus State of Haryana (2015) 2 SCC 227.

3. I find no substantial questions of law for consideration in this second appeal. The same is dismissed.

4.

August 13, 2015
prem

(K.KANNAN)
JUDGE