

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 160 of 2014

Date of Decision : 30.10.2015

Ghamandha Singh and others

....Appellants

Versus

Jaswinder Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Madan Sandhu, Advocate
for the appellants.

Surinder Gupta, J.

This Regular Second Appeal has been filed against the concurrent judgments of Courts below whereby suit filed by the plaintiff-respondents seeking compensation/damages on account of pecuniary loss occasioned to them and their estate because of actionable wrong and torturous acts of defendant-appellants was decreed and compensation of ₹ 4 lacs was allowed.

2. In later part of judgment parties to suit will be referred as plaintiffs and defendants as per the civil suit.

3. The case of plaintiffs, in brief, is that on 26.09.2008 at about 09.00 p.m. Mohinder Singh husband of plaintiff No. 1- Jaswinder Kaur, father of plaintiffs no. 2 to 5 and son of plaintiffs no. 6 and 7 was going to his fields after having meals when he was attacked by the defendants and caused injuries as a result of which he died while being shifted to hospital. FIR No. 143 dated 27.09.2008 for offences punishable under Sections 302/34 of Indian Penal Code (IPC) was registered at Police Station Sadar, Mansa. Police presented the challan in which all the accused except Ghamandha Singh were convicted and

sentenced.

4. Both the Courts below relied on the testimonies of Surjeet Kaur and Bant Singh eye-witnesses of the occurrence while concluding that the death of Mohinder Singh has taken place due to wrongful act of defendant-appellants.

5. Learned counsel for the defendant-appellants has assailed the findings of Courts below on two counts; firstly, Ghamandha Singh has been acquitted by the criminal court; and secondly, the appeal against conviction is still pending.

6. Both the Courts below while reaching the conclusion that Mohinder Singh was murdered by the defendants have relied on the testimonies of witnesses examined by the plaintiffs. Reference was made to the judgment passed in criminal case only as a corroborative piece of evidence. It has been rightly observed by the Court below that standard of proof in a criminal case is stricture as the prosecution has to establish its case beyond shadow of reasonable doubt while in a civil case the conclusions are drawn on the basis of preponderance of evidence and probabilities. The mere fact that Ghamandha Singh was acquitted by the criminal court by giving him benefit of doubt is no reason to exonerate him from a civil liability and to discard statements of eye-witnesses that he was also present at the time of occurrence though, he was empty handed and specific role in occurrence has been attributed to him. The other argument of learned counsel for the appellants that appeal against conviction of appellants except Ghamandha Singh is also pending, is also without any merit as learned counsel for appellants could not

dent the findings of fact recorded on the basis of evidence on record.

7. On perusal of the paper-book and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference. No question of law, what to talk of substantial question of law requiring determination, arises in this appeal, which has no merit.

Dismissed.

October 30, 2015
jk

(SURINDER GUPTA)
JUDGE