

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 2641 of 2014 (O/M)
Date of decision : 19.10.2015

Buta Singh @ Amartej Singh

..... Appellant

Versus

Amit Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. B.D. Sharma, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 6.12.2013, passed by the learned Additional District Judge, Jalandhar, affirming the judgment and decree dated 18.7.2012, passed by the learned Additional Civil Judge (Senior Judge), Phillaur, vide which the suit of the plaintiff for recovery of Rs. 5,46,202/- as damages and compensation was partly decreed and rupees one lac were awarded as compensation in favour of the plaintiff and against defendant No. 1 with interest at the rate of 6 per cent per annum from the date of filing of the suit till

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its realization. However, the suit against defendants No. 2 and 3 stood dismissed.

According to the plaintiff (respondent herein), on 28.6.2003, at about 8:45 PM, he was attacked by defendants No. 1 to 3. Defendant No. 1 was carrying gandasa and gave blow, which hit thumb of his left hand. The second blow given by Buta Singh @ Amartej Singh (defendant No. 1) hit the upper side of his right wrist. His father and other persons came to the spot after hearing the hues and cry of plaintiff. The plaintiff/respondent became unconscious and was removed to Gian Chand Hospital, Goraya, from where he was taken to Civil Hospital, Bara Pind, from where he was referred to CMC, Ludhiana, where he was got medico legally examined and his MLR was prepared by doctors on 28.6.2003. FIR No. 85 dated 1.7.2003 was registered at Police Station Goraya, against defendants. The desire of the defendants to eject the plaintiff and his family members from the rental house at village Rurka Khurd, was stated to be the motive behind the crime. It is stated that due to injuries, the plaintiff has suffered heavy loss and is unable to do any work. It is difficult for him to lead happy life and no suitable match is possible for his marriage due to the injuries caused by defendants. The plaintiff also remained under stress and mental agony. He was earning Rs. 4,000/- per month by working at Medical Glass House.

On the other hand, the defendants in written statement

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denied all the averments and claimed that certificate of income of plaintiff shows the income of Rs. 2,243/- per month only.

The lower Court awarded damages to the tune of rupees one lac in favour of the plaintiff and against defendant No. 1 only. The judgment was upheld in appeal.

I have heard the learned counsel for the appellant and have also carefully gone through the file.

The learned counsel for the appellant has vehemently argued that the lower Court has erred in relying upon the judgment of the criminal court, vide which he (defendant) was convicted and sentenced. It has been further argued that revision against the judgment of the criminal court is pending as the defendant has preferred Criminal Revision No. 2732 of 2009 before this Court and, therefore, the same has not become final. The learned counsel has placed reliance upon the authority of the Apex Court in Kishan Singh (D) through LRs Versus Gurpal Singh and others, 2010 AIR (SC) 3624, wherein it was held that the judgment of criminal court is per se not binding on the civil court. It has been further argued that before the lower Court, the MLR was not proved. The doctor was not examined and the medical bills were also not proved by summoning the witness.

After going through the judgments and decrees of both the Courts below, I find that it is not a denying fact that FIR was

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registered against the present appellant and he was tried. It is proved from the testimony of plaintiff and his father that he (plaintiff) was assaulted by defendant No. 1 and had received injuries at the hands of defendant No. 1. The lower Court relied upon the injuries mentioned in the judgment of the criminal court to hold about the nature of injuries. I am of the view that though, the judgment of the criminal court, convicting and sentencing the present appellant, is not binding on the civil court, but the civil court could certainly look into the facts and the injuries mentioned therein to corroborate the statements of plaintiff and his father about the nature of injuries. Therefore, even in the absence of examination of the doctor and proof of medical bills and MLR, from the oral testimony of plaintiff and his father, it is proved that plaintiff had received injuries at the hands of defendant No. 1 in the incidence, which occurred on 28.6.2003. The civil cases are decided on the basis of preponderance of probabilities, while in criminal cases, standard of proof is proving guilt beyond all reasonable doubts and, therefore, the lower Court weighed the judgment of the criminal court and the evidence led by the plaintiff to hold that it is proved that the present appellant/defendant No. 1 had caused injuries to the plaintiff. The plaintiff was assaulted by defendant No. 1. He was admittedly taken to CMC, Ludhiana, where he remained under treatment and even if the medical bills are discarded, the treatment in CMC, Ludhiana, is

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not free and the plaintiff must have incurred some medical expenses. He also remained under pain and suffering and certainly, his life is not normal as it was before the occurrence. Therefore, even on the basis of guess work, the compensation of rupees one lac is not excessive. It being so, the findings of facts have been recorded by both the Courts below and this Court does not find any reason to interfere in the same. Therefore, no substantial question of law arises in the present appeal. Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

19.10.2015
sjks