

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 4567 of 2014 (O&M)
Date of decision:- 07.07.2015

Sukhdev Singh

...Appellant

Versus

Kulwinder Singh & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Avinash Chander Jain, Advocate
for the appellant.

RITU BAHRI J.

Defendant-Appellant (for short 'the appellant') is in second appeal against the concurrent finding of fact recorded by both the Courts below whereby suit of plaintiff/respondent No. 1-Kulwinder Singh (for short 'respondent No. 1') was decreed.

Respondent No. 1 file a suit seeking recovery of Rs.04 lacs alleged that he was an agriculturist and owner of land measuring 46 kanals and 16 marlas situated in village Mehma, Tehsil and District Amritsar. On 15.08.2003, when respondent No. 1 with the help of his brother, father, fathers sister were shifting waste co-dung from their house to land in their possession, Sukhdev Singh armed with Kirpan, Charanjit Kaur and Nazar Singh armed with datars and Jarnail Singh armed with gandasi came there and started beating respondent No. 1 and other members of the family.

On raising alarm, they were rescued by Lakhbir Kaur, Prem Singh and Hardip Singh and also witnessed the entire occurrence and thereafter, appellant and other accused escaped from the spot. Respondent No. 1 remained admitted in hospital from 15.08.2003 to 03.09.2003 and was treated by Dr. Ravi Mahajan, Dr. Avtar Singh and Dr Amandeep Kaur etc and the right arm of respondent No. 1 was re-planted in an emergency operation at Amandeep Hospital Amritsar. An amount of Rs.2 lac was spent by respondent No. 1 on his treatment. Further the injuries caused had permanently disabled respondent No. 1 to the extent of 40% and was unable to do any work. Thereafter, F.I.R No. 212 dated 15.08.2003 was registered at P.S Sultanwind, Amrtisar under Sections 326/323/324/34 IPC (307 IPC added lateron) Due to 40 % disability his prospects of marriage were reduced seriously.

On notice, appellant as well as respondent Nos. 2 to 4 filed their written statement and denied that respondent No. 1 was in possession of land in which they were shifting ruhri or that the appellant as well as respondent Nos. 2 to 4 had raised any lalkara etc being armed with weapons. They further stated that the whole story put forth by respondent No. 1 is concocted one.

From the pleading of the parties, the trial Court framed the following issues:-

- “1. Whether the defendants caused injuries on this person of plaintiff on 15.08.2003 at 8 AM? OPP
2. Whether the plaintiff spent more than Rs.2 lacs on his treatment? OPP
3. Whether the plaintiff is entitled to recover Rs.4 lacs as damages from the defendants? OPP
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD
6. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
7. Whether the suit is bad for misjoinder and non-joinder of necessary parties? OPD
8. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction? OPD
9. Whether this Court has no jurisdiction to try and entertain the present suit? OPD
10. Whether the suit is barred by limitation? OPD
11. Relief.”

After going through the entire evidence led by the parties, the trial Court concluded that Sukhdev Singh had caused an injury with his kirpan on the right arm of respondent No. 1 and others caused injuries to the brother, father and father's sister of respondent No. 1 and further

respondent No. 1 proved the necessary expenses incurred on his medical treatment by examining Dr. Avtar Singh as witness who while appearing had stated that respondent No. 1 was admitted in the hospital on 15.08.2003 in serious condition and was saved only due to medical aid and besides the amount of Rs.1,03,000/- spent on his treatment vide Ex P1 other expenses of medicines etc depicted in Ex P2 to Ex P24 were also borne by respondent No. 1. He proved his disability certificate vide Ex PW2/A, according to which he was suffering from permanent disability of 40% and thus, the suit was decreed.

On appeal filed by the appellant, the Lower Appellate Court dismissed the appeal and affirmed the judgment of the trial Court.

After going through the judgment passed by both the Courts below, it transpires the respondent No. 1 has successfully been able to prove that he was being attacked by the appellant and due to which an F.I.R was registered and in this incident, he suffered permanent disability of 40%, as per Ex PW2/A and on his treatment, Rs. 2 lacs spent, as proved by Dr. Avtar Singh. Thus, the trial Court had rightly decreed the suit of respondent No. 1 and entitled him to recover Rs.2 lacs on account of expenses incurred by respondent No. 1 and further Rs.1 lacs as damages on account of permanent disability suffered by respondent No.

1 along with interest @ 12% per annum from the date of filing of the suit till the date of passing of decree. This finding of fact has been affirmed by the lower Appellate Court,

Thus the judgment passed by both the Courts calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

July 07, 2015
G Arora

(RITU BAHRI)
JUDGE