

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1376 of 1988 (O&M)

Date of Decision: 25.05.2016

M/s Indian Roadways Corporation

... Appellant(s)

Versus

The New India Assurance Company Limited and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Rajesh Mahajan, Advocate
for the appellant(s).

Mr. Ravinder Arora, Advocate
for respondent No.1.

Shekher Dhawan, J.

Present regular second appeal, filed by the defendant, against concurrent findings of facts having been recorded in suit for recovery of ₹ 14,500/-, whereby the Court of first instance dismissed the suit and first Appellate Court reversed the said findings.

The only short point involved in the present regular second appeal is regarding maintainability of the appeal.

Learned counsel for the appellant submitted that amendment of

Sections 100 and 102 CPC had come into operation w.e.f. 1.4.2002, whereas

the present regular second appeal was filed on 12.5.1988. As such, present

appeal is maintainable.

Learned counsel for respondent No.1 submitted that present appeal is against recovery of meager amount, which is less than ₹ 25,000/- and both the Courts below have already decided the litigation and present appeal is not maintainable after the amendment of Sections 100 and 102 CPC.

As per amended provisions of Sections 100 and 102 CPC, there is complete bar on second appeal in case involving recovery of amount, which is less than ₹ 25,000/-. There is no such provision in the amendment, which reveals that amendment has to come into operation for subsequent litigation. Such a view was taken by the Hon'ble Apex Court in *Haryana Dairy Development Cooperative Federation Limited Versus Jagdish Lal (2014) 3 SCC 156*. Similar view was taken by the Co-ordinate Bench of this Court in *Gurudawara Singh Sabha Versus Uttar Haryana Bijli Vitran Nigam Limited and another (RSA No. 4972 of 2012 (O&M), decided on 21.5.2014)*. Provisions of Section 100 CPC were amended so as to restrict the scope of second appeal and to curb such tendency to burden the higher Courts with litigation in such like cases involving petty amounts.

In view of the above, present appeal is not maintainable and the same stands dismissed.

(Shekher Dhawan)
Judge

May 25, 2016
“DK”