

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

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RSA 444 of 2012 (O&M)
Date of decision: 25.02.2016

Jaswinder Singh

..... *Appellant*

Versus

Lakhvir Singh and others

..... *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Rajan Bansal, Advocate
for the appellant

Mr. Deepak Gupta, Advocate
for respondents 1 and 2

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1. Whether Reporters of local papers 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?

Rekha Mittal, J.

The present appeal has been directed against the consistent findings recorded by the Courts below whereby claim of the appellant/plaintiff in regard to his entitlement to Rs.3,00,000.00 towards damage to his tractor, has been dismissed.

Counsel for the appellant contends that on 29.04.2005, Jaswinder Singh-appellant and his sister namely Rajvir Kaur-plaintiff No. 1 (proforma respondent) were present in the fields along with one Karnail Singh in connection with cultivation of land and he was ploughing the fields with tractor bearing No. PB-03-F-1345. Respondent No. 1 armed with .12 bore DBBL gun and respondent No. 2 armed with *gandasa* came in the fields of plaintiff No. 1. Respondent No. 2 exhorted respondent No. 1 to fire a shot to kill the plaintiffs. Respondent No. 1 fired a shot which struck

the chest and abdomen of Rajvir Kaur, another shot fired by him hit the victim on her upper arm, left flank and right knee and still another shot hit her on the back, legs and right hand. Respondent No. 2 took diesel from fuel tank of the tractor belonging to the appellant, sprinkled it on the tractor, put dried cotton sticks on the tractor and set it on fire. The injured was shifted to the Civil Hospital, Talwandi Sabo. A criminal case under Sections 307, 336, 427 read with Section 34 of the Indian Penal Code and Sections 25/27 of the Arms Act vide FIR No. 48 dated 29.04.2005 was registered at Police Station Talwandi Sabo. On completion of investigation, challan was presented in the Court and the contesting respondents have been held guilty of the offence charged against them.

Smt. Rajvir Kaur and the appellant filed a suit for recovery in respect of injuries sustained by Smt. Rajvir Kaur and damage to the tractor belonging to the appellant. The claim of Smt. Rajvir Kaur was partly allowed and she was held entitled to an amount of Rs.1,00,000.00 towards her sufferings on account of injuries sustained at the hands of the respondents but claim of the appellant to compensation in respect of loss to the tractor has been declined by the trial Court, affirmed in appeal.

Counsel has argued with vehemence that as the occurrence in question is duly proved in the criminal proceedings, culminated in conviction of the respondents and the judgment is a part of the civil suit instituted by the appellant, the Courts below have committed a grave error in exonerating the respondents of their liability to compensate the appellant for the loss to his tractor at the instance of the respondents.

Counsel for the contesting respondents, on the contrary, would submit that neither the appellant was a registered owner of the vehicle in

question nor he could prove that he had discharged his obligation under an agreement, purportedly executed between him and the registered owner of the vehicle by payment of entire sale consideration. Another submission made by counsel is that the appellant failed to adduce satisfactory much less cogent and convincing evidence to prove the extent of damage to the tractor and further monetary loss suffered by him in this regard.

I have heard counsel for the parties, perused the records and find no merit in the appeal.

On a specific query raised by the Court as to whether the appellant has adduced any evidence to prove the extent of damage caused to the tractor, counsel has submitted that the appellant, in his statement on oath, has deposed that the tractor was damaged and he suffered a loss to the tune of Rs.4,00,000.00. He has fairly conceded that he has neither examined any mechanic much less an assessor to prove the extent of loss in terms of money. As the appellant has failed to adduce satisfactory much less cogent and convincing evidence to prove the extent of damage to the tractor in question, no fault can be found with the judgments passed by Courts below negating his claim for recovery of compensation. In this view of the matter, neither any substantial question of law arises for adjudication nor there is any reason to interfere in the consistent findings recorded by the Courts below.

For the reasons aforesaid, the appeal is dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

25.02.2016
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