

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

**R.S.A No.2308 of 2015(O&M)
Date of decision :25.10.2016**

Nasib Singh and another

..... Appellants

Versus

Paramjit Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Bhavyadeep Walia, Advocate
for the appellants.

DARSHAN SINGH,J

CM No. 6021-C of 2015

This application has been filed under Section 5 of the Limitation Act for condoning the delay of 472 days in filing the present appeal.

Heard.

In view of the reasons mentioned in the application, the present application stands allowed and the delay of 472 days in filing the present appeal is hereby condoned.

CM No. 6024-C of 2015

This application has been filed for impleading the legal heirs of deceased respondents no. 10 and 11.

Heard.

In view of the reasons mentioned in the application, the application stands allowed and the persons mentioned in para nos. 3 and 4 of the application are allowed to be impleaded as legal representatives

of deceased-respondents no.10 and 11.

R.S.A No. 2308 of 2015 (O&M)

The present appeal has been preferred against the judgment and decree dated 16.11.2013 passed by the learned Additional District Judge, Mansa, whereby the appeal filed by appellants-defendants against the judgment and decree dated 10.05.2010 passed by the learned Additinoal Civil Judge (Sr. Division), Sardoolgarh, has been dismissed.

2. Plaintiffs-respondents no. 1 and 2 has filed the suit as indigent person for recovery of Rs. 25.90 lacs as compensation/damages against the present appellants and their co-defendants under the Fatal Accident Act for causing the death of Tarsem Singh @ Deputy.

3. As per averments in the plaint, plaintiffs-respondents are the legal heirs of deceased-Tarsem Singh @ Deputy. They were wholly dependant upon him during his lifetime. Defendants no.1 to 11 caused his death by unlawfully and intentionally committing his murder in furtherance of their common intention. The criminal case bearing FIR No. 97 dated 06.08.2002, for the offences under Sections 302, 120-B, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC') was registered against them. On investigation, the report under Section 173 of the Code of Criminal Procedure, 1908 (for short Cr.P.C) was presented against defendants no. 1 to 8. It is further pleaded that deceased-Tarsem Singh @ Deputy was a young man of 24 years of age. He was hale and hearty and suffering from no ailment. The defendants have cut short his life. The normal span of life of male members in the family of the deceased-Tarsem Singh @ Deputy would have been 80-85 years. He was a

carpenter and used to manufacture the furniture. His income was Rs. 6000/- per month. Hence, this suit.

4. The suit has been contested by the appellant and his co-defendants on the grounds *inter alia* that the plaintiffs were not fully dependant upon the income of deceased-Tarsem Singh @ Deputy. They have not committed the murder of Tarsem Singh @ Deputy nor they caused any injury to him. The FIR No. 97 dated 06.08.2002 registered against them is based on false facts. Thus, they pleaded that the plaintiffs are not entitled to recover any compensation from the defendants and pleaded for dismissal of the suit.

5. Plaintiffs filed the replication to the aforesaid written statement wherein the pleas raised in the written statement were controverted and those of the plaint were reaffirmed. From the pleadings of the parties, the following issues were framed by the learned trial Court vide order dated 12.09.2008:-

1. Whether the defendants murdered Tarsem Singh son of Chanan Singh?OPP
2. Whether the plaintiffs are entitled to recover suit amount as compensation and damages from the defendants?OPP
3. Whether the suit is not maintainable in the present form?OPD
4. Relief.

6. On appreciation of the evidence recorded and the contentions raised by the learned counsel for the parties, the learned trial Court vide impugned judgment and decree dated 10.05.2010 decreed the suit of the plaintiffs-respondents no.1 and 2 for compensation to the tune of of Rs. 3,72,800/- along with proportionate costs and interest at the rate of 6% per annum from the date of filing the present suit till realization.

7. Aggrieved with the aforesaid judgment and decree,

appellants preferred the appeal. The same has also been dismissed by the learned Additional District Judge, Mansa, vide impugned judgment and decree dated 16.11.2013. Hence, this Regular Second Appeal.

8. I have heard Mr. Bhavyadeep Walia, Advocate, learned counsel for the appellants and have gone through the paper book carefully.

9. Initiating the arguments, learned counsel for the appellants contended that the appellants-defendants have not committed the murder of Tarsem Singh @ Deputy as the version set up by the plaintiffs is not supported from any independent evidence. Plaintiff-Paramjit Kaur was not the witness of the occurrence. He further contended that no cogent proof has been brought on record to prove the income of the deceased and loss suffered by the plaintiffs due to his death. Thus, he pleaded that the learned Courts below have wrongly decreed the suit.

10. I have duly considered the aforesaid contentions.

11. As per the case of the plaintiffs, deceased-Tarsem Singh @ Deputy was murdered by defendants by causing the injuries on his person with *Kulhari, Sota and Dang* in furtherance of their common intention. The motive for the occurrence is stated that they had a doubt that deceased-Tarsem Singh @ Deputy had illicit relations with Chindi @ Polo, the daughter of Satwinder Singh. In order to establish their case, plaintiffs have examined Pritam Singh as PW-4, who happens to be the witness of the occurrence. He has fully supported the version set out by the plaintiffs in the plaint and categorically deposed that Gurmit Singh, Jit Singh, Nasib Singh, Kala Singh, Nirvair Singh, Gurjant Singh and

Bhupinder Singh defendants forcibly picked up Tarsem Singh @ Deputy from the Panchayat which was being held to resolve the matter and took him to the house of Nirvair Singh, where he was given beating after shutting the door of the house. Other defendants namely Shindo Bai, Gurdev Singh, Joginder Singh and Satnam Singh were also present inside the house and they had raised the lalkarars that Tarsem Singh @ Deputy should be killed. He has categorically deposed that injuries to the deceased-Tarsem Singh @ Deputy were caused by defendants i.e. Gurmit Singh with the axe, Jit Singh with Sota, Kala Singh with Dang. He had also deposed about the specific roles attributed to the other defendants. The aforesaid testimony is also corroborated from the medical evidence. Defendant-Gurmit Singh, Jit Singh, Nasib Singh (appellant no.1), Kala Singh, Bhupinder Singh, Nirvair Singh (appellant no.2) and Gurjant Singh were also convicted for causing the murder of Tarsem Singh @ Deputy by the learned Additional Sessions Judge, Mansa, vide judgment dated 31.07.2006 (copy Ex.P-3).

12. The testimony of PW-4 Pritam Singh, the witness of the occurrence is also corroborated from the statement of plaintiff-Paramjit Kaur (PW-3) and the judgment dated 31.07.2006 delivered by the learned Additional Sessions Judge, Mansa in the criminal case. Thus, the plaintiffs-respondents have led the sufficient evidence to establish that appellants and their co-defendants Gurmit Singh, Jit Singh, Kala Singh, Bhupinder Singh and Gurjant Singh have committed the murder of Tarsem Singh @ Deputy in furtherance of their common intention by causing him the fatal injuries.

13. The learned trial Court has determined the income of the deceased Rs.3000/- per month, who was working as a carpenter. The income so determined by the learned trial Court is quite reasonable and the compensation has been computed by the learned trial Court taking into consideration the aforesaid monthly income of the deceased. 1/ 3rd of the income has been deducted towards the personal and living expenses of the deceased and suitable multiplier has been applied. Learned counsel for the appellant could not point out any defect or infirmity in the procedure so adopted by the learned trial Court to compute the amount of compensation. Thus, as the appellants with their co-defendants named above have intentionally caused the murder of Tarsem Singh @ Deputy by causing him the fatal injuries, so the plaintiffs are certainly entitled to the compensation/damages as awarded by the learned Courts below.

14. Thus, keeping in view of my aforesaid discussion, there is no perversity or illegality in the concurrent findings recorded by the learned Courts below.

15. Consequently, no question of law, much less, the substantial question of law arises in the present appeal.

16. Therefore, the present appeal being devoid of merits, is hereby dismissed with no orders as to costs.

October 25, 2016

s.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No