

235

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

**Civil Revision No.3113 of 2016
Date of Decision: 05.12.2017**

HAKUMAT SINGH

.....Petitioner

Vs

**BALTEJ KAUR DECEASED THROUGH LRS SUKHDEV
SINGH AND ORS.**

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. S.S. Dhaliwal, Advocate
for respondents No.1 and 2.

Mr. Achin Gupta, Advocate
for respondents No.3 and 4.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 11.03.2016 passed by the Civil Judge (Jr. Divn.) Faridkot vide which application under Order 1 Rule 10 CPC filed by the legal representatives of deceased Baltej Kaur was allowed.

[2]. Brief facts are that Baltej Kaur filed a civil suit for damages/recovery as an indigent person in a sum of Rs.3 lakhs as compensation on account of the injuries caused to her by the

petitioner and proforma respondents No.2 to 4. The occurrence took place on 18.03.2010 at 6.30 a.m. when the plaintiff had gone to pay obeisance in *Dera* of the village. In respect of the occurrence, FIR No.25 dated 18.03.2010 was registered for the offences under Section 323, 324, 34 IPC in Police Station Sadar, Kotkapura. The injured was discharged from the hospital on 28.03.2010. The plaintiff died on 06.03.2015. Thereafter legal representatives of plaintiff Baltej Kaur filed the application for impleadment and the same has been allowed by the trial Court vide order dated 11.03.2016 on the premise that a right would survive, if it has resulted in benefit to the estate of the deceased.

[3]. Learned counsel for the petitioner by referring to Section 306 of the Indian Succession Act, 1925 submitted that all demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his death, survive to and against his executors or administrators except causes of action for defamation, assault, as defined in the Indian Penal Code, 1860 (45 of 1860) or other personal injuries not causing the death of the party and except also cases where, after the death of the party, the relief sought could not be enjoyed or granted it would be nugatory

[4]. Learned counsel by relying upon **M. Veerappa vs. Evelyn Sequeria and others, 1988 AIR (SC) 506** and **State of Haryana and others vs. Gurcharan Singh Bhutani, 2011(1) Land Law Reporter, 181** submitted that the cause of death was not relatable to the injuries and, therefore, a suit for declaration claiming damages and impleadment by legal representatives after the death of plaintiff is not maintainable as the cause of action does not survive after death of the plaintiff and the suit abates. It is not a case of defamation, rather a case of recovery of damages on account of personal injuries. The right to claim damages stands extinguished with the death of the person. Legal representatives are not entitled to represent the cause of action as the same does not survive after the death of the plaintiff.

[5]. In view of above, the impugned order dated 11.03.2016 passed by the Civil Judge (Jr. Divn.) Faridkot is set aside. This revision petition is accepted.

December 05, 2017

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No