

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

RSA No.2443 of 1995 (O&M)

Date of decision : 26.10.2017

Guran Dass

...Appellant

Versus

Gram Panchayat Mehngrowal Hoshiarpur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. B.S. Jaswal, Advocate for the appellant.

None for the respondent.

ANIL KSHETARPAL, J.

The defendant-appellant is in Regular Second Appeal against the judgments passed by the Courts below.

Whether the judgment passed by the learned First Appellate Court is result of non-reading of the suit filed by the plaintiff or not?

Gram Panchayat had filed a suit for recovery of ₹23,105/- being half share of the total compensation amounting to ₹46,209.50 paise paid by the plaintiff to satisfy the award passed by the Motor Accident Claims Tribunal. It is the claim of the plaintiff that the defendant-appellant was employed as a driver to drive the tractor. The defendant caused the accident. Motor Accident Claims Tribunal, found that the defendant was rash and negligent and awarded ₹30,000/- which was enhanced to ₹40,000/- alongwith future interest.

Defendant contested the suit on the ground that the liability is joint and several and, therefore, the recovery cannot be effected from the defendant.

The learned trial Court after relying upon Rule 9(2)(ii) of the Panchayat Rules 1965 decreed the suit filed by the plaintiff.

Defendant filed the first appeal. Learned First Appellate Court held that the suit qua recovery of ₹10,000/- as enhanced by the High Court is within time and for remaining amount, the suit is barred by limitation.

Gram Panchayat is not in appeal. Defendant has filed this appeal. Gram Panchayat had claimed that the defendant is liable to pay 50% of the amount awarded. Therefore, the First Appellate Court could have awarded half of the enhanced amount. Thus, the appeal is partly accepted.

Appellant is made liable to pay 50% of the enhanced amount i.e. ₹5,000/- alongwith interest at the rate of 6% p.a. from the date of decree of the trial Court till the date of payment.

Appeal partly accepted.

26.10.2017

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**