

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

IOIN-CRA-D-235-DB-2011

Date of Decision: September 25, 2017

State of Haryana

.....Appellant

Versus

Braham Singh @ Brahma

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Vishal Garg, Addl.AG, Haryana.

Mr.Sumit Goel, Advocate with
Ms.Ramandeep Kaur, Advocate for HSLSA.

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SURYA KANT, J.

While deciding Criminal Appeal No.D-235-DB-2011 (**State of Haryana vs Braham Singh @ Brahma son of Bakhtawar Singh, resident of village Dhamar, Police Station Sadar Rohtak**), a Division Bench of this Court vide judgment and order dated September 20, 2013, allowed the said appeal, set aside the order of acquittal passed by the Additional Sessions Judge, Rohtak and held the respondent guilty of offence under Section 302 IPC for commission of murder of his wife Meena and consequently sentenced him to undergo imprisonment for life and to pay fine of Rs.10,000/-, in default whereof to further undergo rigorous imprisonment for six months. The respondent was further sentenced to undergo imprisonment

for life and to pay fine of Rs.10,000/- and in default thereof to undergo rigorous imprisonment for six months for commission of murder of Raju (deceased). All the sentences were ordered to run concurrently.

[2] After convicting the respondent, as mentioned above, the Division Bench proceeded to determine the quantum of compensation in terms of Section 357 Cr.P.C. and awarded a sum of Rs.3,12,000/- to the legal representatives of Raju (deceased). The operative part of the order reads as follows:

“However, the case of grant of compensation is made out in favour of the legal representatives of Raju (deceased), who was at the time of commission of his murder by respondent, was 35 years of age. He was not trained in any profession, as also, he was not holding any degree or diploma. So at the most he can be categorized as a manual labourer, whose monthly income in any circumstance could not transcend Rs.3000/-, out of which, he would have kept 1/3rd for his own personal expenses and contributing the remaining monthly income to his legal representatives. In this manner, the legal representatives of Raju (deceased) suffered monthly loss of dependency to the extent of Rs.2000/- and annual loss of dependency to the tune of Rs.24,000/-. Keeping in view his age, the appropriate multiplier shall be of 13 and by applying this multiplier of 13, compensation payable to the legal representatives of Raju (deceased) shall come to Rs.24,000/- X 13= Rs.3,12,000/-.”

[3] It further appears from the record that the respondent had challenged the order of the sentence and the compensation passed by this Court before the Hon'ble Supreme Court and leave was granted after condoning the delay on September 21, 2015. It further appears that in the

absence of any stay against recovery of fine, the matter was forwarded to the Chief Judicial Magistrate, Rohtak, for effecting the recovery of compensation amount from the respondent. The Chief Judicial Magistrate, Rohtak, obtained a report from the Collector, Rohtak and it was found that there is no movable or immovable property in the name of the respondent-Braham Singh @ Brahma and, thus, no recovery could be made from him. On consideration of that report, the Division bench of this Court passed the following order on January 22, 2016:-

“On 19.10.2015, the learned Chief Judicial Magistrate, Rohtak referred the matter regarding recovery of compensation to the District Magistrate for taking proceedings for recovery of the amount as arrears of land revenue. Letter dated 26.12.2015 has been received from the learned Chief Judicial Magistrate, Rohtak stating that the recovery warrant in the case was issued and now a detailed report regarding property of Braham Singh has been received from the Collector, Rohtak. According to the report, there is no moveable/immovable property in the name of Braham Singh alias Brahma. Therefore, recovery cannot be effected. Copy of report of Collector along with report of Tehsildar and Patwari, Rohtak has been enclosed.

In the circumstances, issue notice to the Haryana Legal Services Authority through its Member Secretary for 28.03.2016 for consideration for compensating the victim in terms of the Victim Compensation Scheme.”

[4] Pursuant to the above-stated order, we have heard learned counsel representing Haryana State Legal Services Authority. He submits that the State Legal Services Authority is the Nodal Agency to disburse the

compensation under the Victim Compensation Scheme notified by Government of Haryana under Section 357A Cr.P.C. and, as such, the compensation amount in question can be released to the legal representatives of Raju (deceased) provided that such an order is passed by this Court.

[5] Having considered the submissions of the learned counsel and taking into consideration the fact that the compensation amount, as awarded by this Court vide judgment dated September 20, 2013 cannot be recovered from the respondent under Section 357 Cr.P.C. as he does not own any moveable or immovable assets, we are satisfied that the legal representatives of Raju (deceased) deserve to be compensated by releasing the requisite amount of compensation under the Victim Compensation Scheme notified under Section 357A Cr.P.C.

[6] Consequently, the District Legal Services Authority, Rohtak is directed to release the compensation amount as assessed by this Court in accordance with the prescribed procedure. State of Haryana is directed to provide adequate funds to the District Legal Services Authority to do the needful. The amount be disbursed within a period of three months from the date of receipt of a certified copy of this order.

[7] Disposed of.

(SURYA KANT)
JUDGE

September 25, 2017
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(SUDHIR MITTAL)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No