

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

RSA No.2848 of 2014(O&M)

Date of Decision:-06.07.2017

Amir Singh & Ors.

.....Appellants.

Versus

Sinder Kaur & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for the Appellants.

JASWANT SINGH, J. (ORAL)

Defendants/appellants are in second appeal aggrieved against the concurrent findings returned by the Courts below whereby in a suit for damages filed by the plaintiffs/respondents relief of compensation to the tune of Rs.1,80,000/- was granted to respondent no.1/plaintiff no.1 by the learned Additional Civil Judge (Sr. Divn.), Guhla, vide judgment and decree dated 21.11.2011 and findings thereof were affirmed by learned Additional District Judge, Kaithal vide judgment and decree dated 21.01.2014.

The suit was filed on the ground that the appellants had committed murder of Partap Singh son of respondent no.1 (Sinder Kaur) on 11.08.2005 and was convicted by the learned trial Court vide judgment of conviction dated 10.03.2009.

Learned Counsel for the appellants has argued that the learned

Courts below have wrongly granted compensation to the respondent no.1-plaintiff by ignoring the evidence led on record and by also not considering the fact that the judgment of conviction passed against only four of the defendants is already under challenge before the Division Bench of this Court in CRA-D-364 DB of 2009.

After hearing learned Counsel for the appellants and perusing the paper book, this Court is of the opinion that the present second appeal is devoid of merit and deserves to be dismissed.

Perusal of the record would show that both the Courts below have not solely relied upon the judgment of conviction passed by the Courts below but have also relied upon the independent evidence including eye witness account fully corroborated by Medical evidence that has been led by the respondent no.1-plaintiff in order to prove the factum of murder of Partap Singh by the defendants. It is settled position of law that in a civil proceeding a case has to be decided on the basis of preponderance of evidence. In the present case the plaintiff by leading cogent evidence has been able to independently prove that the defendants/appellants were involved in the murder of Partap Singh. The judgment of conviction has been referred only as a corroborative piece of evidence.

As far as the argument of the appellants that only four defendants were convicted but the compensation has been ordered to be given by all the defendants and thus the judgment suffers from illegality is also devoid of any merit. As observed earlier, Civil and Criminal proceedings go hand in hand and in criminal proceedings prosecution is required to prove the allegations beyond reasonable doubt. However, in a civil proceeding, it is on the basis of preponderance of evidence that the

court comes to a conclusion as to whether the plaintiff is entitled for any relief or not. Since plaintiff/respondent no.1 had led independent evidence, thus the Court had rightly foisted the liability on all the appellants. Even otherwise, mere pendency of the appeal before the Division Bench of this Court cannot absolve the defendants from liability because the Courts have not solely relied upon the judgment of conviction to hold the appellants liable to pay compensation.

In view of the above, finding no merit in the present second appeal the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 06, 2017
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No