

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 SECOND APPEAL NO. 381 OF 2018

PADMAKAR BABURAO DADGE AND ORS.
VERSUS
PRABHAVATI RANBA DADGE AND ORS.

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Mr. R.K.Ashtekar, Advocate for appellants.

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CORAM: VL.ACHLIYA, J.

DATE : 21/09/2018

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ORAL ORDER :

1. Being aggrieved by the concurrent decisions recorded by the Courts below, the appellants – original defendant Nos. 2 to 4 and 7 to 10 have preferred this second appeal.
2. Heard learned counsel for the appellants. Perused the impugned Judgments and orders passed by the Courts below.
3. Learned counsel for the appellants assail the reasons and findings recorded by the Courts below mainly on the ground that appellant Nos. 3 and 5 were acquitted by the appellate Court.
4. On due consideration of the submissions advanced in the light of challenge raised in the appeal, I am of the view that appeal raises no substantial question of law to be determined in second appeal. The Judgments and orders passed by the Courts below are fully inconsistent with the rival pleadings, evidence and settled position in law. The acquittal of accused by appellate Court by extending the benefit of doubt can not be accepted as a ground to exonerate the appellants from civil liability. The fact is not in dispute that the appellants along with

other accused persons were tried for committing offences punishable u/s 302,307,147,148,149,324 and 427 of I.P.C. as well as section 135 of Bombay Police Act on the charge of causing murder of Ranba. On account of death of Ranba, two separate suits came to be filed seeking compensation under the provisions of Fatal Accidents Act, 1955. Special Civil Suit No. 64/2002 [old Spl.C.S.No. 95/2000] came to be instituted at the instance of wife and children of deceased Ranba; whereas Spl. Civil Suit No. 91/2002 [old Spl.C.S.No. 99/2000] came to be instituted at the instance of mother-in-law and father-in-law of deceased Ranba, who themselves sustained serious injuries and became disabled in the accident. Both the suits were tried together. By the Judgment and order dated 20/04/2011 passed by 3rd Jt. Civil Judge [S.D.], Latur, Spl. C.S. No. 64/2002 came to be partly decreed. Defendant Nos.2 to 4 and 7 to 10 i.e. present appellants are held liable to pay Rs. 2 Lakhs as compensation. Being aggrieved, the appellants preferred appeal. The appeal came to be dismissed. Aggrieved by the concurrent decisions rendered by the Courts below, the appellants have preferred this appeal.

5. The grounds raised in the present appeal were agitated before the first appellate Court. First appellate Court has dealt the same exhaustively in the Judgment and order dated 14/08/2017 passed in the matter.

6. There are concurrent findings of facts recorded by the Courts below. The appeal raises no substantial question of law to entertain the appeal. In this view, the appeal deserves to be dismissed.

7. Accordingly, the appeal is dismissed.

[V.L.ACHLIYA]
JUDGE