

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

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RSA No.2984 of 2015 (O&M)

Date of Decision : 12.07.2018

Prem Chand

..... Appellant

Versus

Sub Divisional Engineer and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. M.S.Kathuria, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate Court modifying that of the trial Court and thereby limiting the damages which were awarded to the appellant.

The case of the appellant was that the respondents had laid a sewerage pipe on the edge of his property (where he was running an orchid and a nursery). As a result of faulty design and shoddy workmanship that sewerage pipe broke and the sewage rushed into the fields of the appellant and the debris also went into the tubewell, as a result of which he had to suffer huge losses and consequently he filed the suit for recovery of damages. In his evidence he placed on record a quotation showing the cost of boring a new tubewell at Rs.1.00 lakh. Both the Courts below accepted

the essential facts that damage had been caused to the appellant by the faulty design and shoddy workmanship on the sewerage pipe installed by the respondents. The trial Court relied on that quotation and also awarded a further sum of Rs.1.00 lakh and consequently allowed damages of Rs.2.00 lakhs. On appeal filed by the respondents the appellate Court reduced the damages to Rs.30,000/-. In coming to this figure the appellate Court noticed that the quotation which was placed on record was not proved by the person who had made it. The Court also noticed that ultimately the appellant did not have to get the new tubewell bored but only had to replace the motor. The appellant did not prove how much he had actually spent on the new motor by placing on record any bill and that is why the appellate Court took a clue from the quotation where the motor had been shown at Rs.34,000/- and awarded Rs.25,000/- for that and a sum of Rs.5,000/- for the person who had changed the motor and cleaned the well of all the mud and debris. The appellate Court also noticed that no evidence was led by the appellant with regard to any other loss to the nursery plants or mango trees. The appellant is now before this Court seeking the restoration of the judgment of the trial Court. Even before me the counsel has not been able to explain why the appellant did not place on record the bill of the motor which he had to change. He has also not been able to deny that there was no evidence led regarding the loss to the mango trees or to the plants. He has however, argued that there should be some compensation once the essential fact of faulty planning and shoddy workmanship of the laying of the pipe line.

In the circumstances, even though theoretically it can not be denied that damage was caused to the appellant yet he had to prove the extent of damage.

I am unable to find any fault in the judgments of the Courts below and consequently, dismiss the same.

Appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**(AJAY TEWARI)
JUDGE**

12.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No