

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

**R.S.A No.1199 of 2017(O&M)
Date of decision :28.08.2018**

Mahaveer

..... Appellant

Versus

Veenu @ Ravina

..... Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Riffi Bala Birla, Advocate
for the applicant-appellant.

LISA GILL,J

Appellant-defendant is aggrieved of judgement and decree dated 12.03.2014, passed by learned Additional Civil Judge (Sr. Division), Abohar, as well as judgement and decree dated 02.09.2016, passed by the learned Additional District Judge, Fazilka.

Respondent-plaintiff had filed a suit for recovery of ₹20 lakhs, through her natural uncle Anil Bhambu by way of damages on account of murder of her parents and brother by the appellant-defendant as well as ₹2 lakhs as expenditure and damages against undesirable litigation due to illegal act of the appellant-defendant. It was pleaded that Suman, mother of the respondent and sister of her uncle Anil Bhambhu was married with the deceased-Ranveer Singh son of Manphool. Two

children i.e. a son-Sumit (since deceased) and respondent-plaintiff were born out of the wedlock. Manphool father of the deceased-Ranveer Singh had two sons i.e. Ranveer Singh and the present appellant-Mahaveer. Mahaveer had two sons, therefore, he wanted to grab the property of Ranveer. His father helped him to achieve the motive. It was further pleaded that Suman Devi, her husband-Ranveer Singh and minor son were killed by the appellant on 02.09.2008. Mother of Ranveer Singh had already died. The plaintiff-respondent was stated to be the only legal heir of the deceased. It was further pleaded that the appellant and his wife were jealous of the parents of the respondent-plaintiff as they had only one male child, whereas the appellant had two boys, therefore they felt that their property would be divided in two equal shares, their sons would get lessor share than the son of Ranveer Singh and Suman. The appellant and his wife used to pressurise their father-Manphool Ram that the property should not be divided in three equal shares, but a larger share should be given to the appellant as he had two sons. The plaintiff's parents were not agreeable for the same. Due to this reason, the appellant along with Ram Kumar son of Bhagat Ram in conspiracy with each other murdered Ranveer, Suman, parents of the plaintiff and Sumit, minor brother of the plaintiff on 02.09.2008. FIR no 115 dated 02.09.2008 was registered in this respect. Mahaveer and Ram Kumar were tried. They were found guilty and accordingly convicted for the offences punishable under Section 302 IPC and sentenced to life imprisonment by the learned Sessions Judge, Ferozepur vide judgement and order dated 13.01.2011 (Ex.P-8).

Plaintiff was stated to be a minor. Her peaceful life was disturbed due to the illegal act of the appellant with mala fide intention to grab property. The plaintiff was stated to have sustained irreparable loss. Huge amount had been spent on undesired litigation by the plaintiff-respondent and she suffered extreme trauma which affected her mental peace, studies and education. Therefore, suit for damages as above was filed.

Suit was resisted by the appellant-defendant while submitting that the same was filed only with a view to achieve unlawful gains. Anil Bhambhu, it was pleaded was not competent to act as next friend of the plaintiff. The allegations in the plaint were denied. It was pleaded that the appellant had been falsely implicated in the said FIR. It was thus prayed that the suit be dismissed.

Replication was filed. From the pleadings of the parties, the following issues were framed by the learned trial Court:-

1. Whether the plaintiff is entitled to recovery Rs.20 lakh as damages from the defendant?OPP
2. Whether the suit is false, frivolous and is liable to be dismissed with special costs?OPD
3. Relief.

Both the parties led evidence in support of their respective claims.

Learned trial Court after considering the evidence on record partly decreed the suit for a recovery of ₹12,34,000/- along with interest @ 9% per annum from the date of filing the suit till decree and @ 6% per annum future interest till actual realisation.

Appeal preferred by the appellant-defendant was also

dismissed by the learned Additinoal District Judge, Fazilka, vide impugned judgement and decree dated 02.09.2016.

Aggrieved therefrom, the present appeal has been filed.

Learned counsel for the appellant vehemently argues that judgement dated 14.01.2011 passed by the learned Sessions Judge, Ferozepur, is not binding. Appeal against the same is pending before this Court. Therefore, the present appeal should be allowed as an irreparable loss shall be caused to the appellant in case he is successful in his appeal against conviction. It is further contended that the learned trial Court has erred in applying the principles followed in the motor accident claims in the present case to assess the compensation. In any case, age of the deceased-Ranveer is not proved to be in the age group of 25 to 30 years, therefore multiplier has been incorrectly applied. It is thus prayed that the impugned judgements and decrees be set aside and this appeal be allowed.

I have heard learned counsel for the appellant and have gone through the file with her able assistance.

There is no dispute that the appellant has been convicted for the murder of his brother-Ranveer Singh, sister-in-law-Suman, their son and his nephew-Sumit by the learned Sessions Judge, Ferozepur vide judgement dated 14.01.2011 (Ex.P-8). Both the learned Courts below have rightly concluded that in the wake of conviction of the appellant for the offence punishable under Section 302 IPC, the same is extremely relevant for the decision of the present matter seeking recovery of compensation on account of murder of the parents of the plaintiff and her

brother. It is rightly held by the learned Additional District Judge that there is ocular evidence on record in view of the statement of PW-1 regarding the murder of the parents of the plaintiff and her brother by the appellant as well. Therefore, there is no merit in the argument that it was incumbent on the plaintiff to have led separate additional evidence in the present proceedings to further prove the murder of the parents and brother of the plaintiff-respondent.

Similarly, I do not find any merit in the argument raised on behalf of the appellant regarding the quantum of compensation or assessment thereof by both the learned Courts below. Guidelines followed by the Courts in assessing compensation in motor accidents cases have been correctly followed. Argument that age of deceased-Ranveer and Suman, is not proved to be in the age group of 25 to 30, is clearly misconceived keeping in view the specific concession of learned counsel for the appellant, duly recorded by the learned trial Court. The same is clearly reflected in Para no.14 of judgement dated 12.03.2014. There is indeed nothing on record which indicates that the compensation/damages assessed are not justified in the facts and circumstances of the case.

No other argument has been raised.

Learned counsel for the appellant-defendant is unable to point out any question of law much less substantial question of law which may be involved for consideration in this regular second appeal. Both the impugned judgements are well reasoned judgements rendered after proper appreciation and consideration of the evidence on record.

Keeping in view the facts and circumstances as discussed above, I do not find any infirmity, illegality or perversity in the impugned judgments and decree dated 12.03.2014 and 02.09.2016 passed by the learned Addl. Civil Judge (Sr. Division) Abohar and learned Additional District Judge, Fazilka, respectively, which warrant any interference by this Court.

There is a delay of sixty four (64) days in filing of this appeal. Keeping in view the fact that the matter has been decided on merits, the question of delay in filing of this appeal has been rendered academic. Application is accordingly disposed of.

Present appeal is, consequently, dismissed with no order as to cost.

28.08.2018

s.khan

**(LISA GILL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No