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

CR No. 2745 of 2018
Date of Decision: 18.11.2019

Amar Singh and others

-Petitioners

Vs

Bant Singh (now deceased) through LR

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Tahaf Bains, Advocate,
for the petitioners.
Mr. Arvinder Singh, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have preferred this revision petition against the order dated 26.03.2018 passed by Civil Judge (Junior Division), Fatehgarh Sahib vide which the application under Order 22 Rule 3 CPC in view of Section 306 of Indian Succession Act for dismissal of the suit was dismissed.

The suit was filed by the plaintiff i.e. deceased Bant Singh for damages on account of defamation. After filing of the suit on 03.04.2014, he died on 18.11.2015.

By way of filing application under Order 22 Rule 3 CPC, petitioner sought dismissal of the suit on the ground that right to sue by the legal heir for tortious liability arising out of defamation does not survive in view of Section 306 of the Indian

Succession Act.

The suit was for personal relief to the deceased-plaintiff. Right to sue and claiming damages does not survive to the legal representatives of deceased in view of **Mahtab Singh vs Hub Lal, AIR 1926 Allahabad 610** which was consistently followed thereafter.

Personal action dies with the death of the party and doctrine of 'Actio personalis' shall apply.

The aforesaid proposition has been endorsed in **Puran Singh and others vs State of Punjab and others, (1996) 2 SCC 205** and the same was followed in **Asha Nagar vs Gyan Swarooop through LR Hardeep Singh, 2017(3) RCR (Civil) 403.**

The aforesaid proposition of law as discussed hereinabove has not been countered by learned counsel for the respondent by way of any legal precedent.

In view of aforesaid legal position, I deem it appropriate to accept this revision petition. Consequently, the impugned order dated 26.03.2018 passed by Civil Judge (Junior Division), Fatehgarh Sahib is hereby set aside.

Normal consequences to follow.

18.11.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |