

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

**CR No. 5478 of 2018 (O&M)**

**Date of Decision: 1.4.2019**

**Maha Singh**

**.....Petitioner**

**Vs**

**Mukesh and another**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

**Present:** Mr. Sansar Kundu, Advocate,  
for the petitioner.

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**RAJ MOHAN SINGH, J. (ORAL)**

Petitioner has assailed the order dated 21.7.2018 passed by Civil Judge (Senior Division), Jind vide which the application filed by the respondents under Order 7 Rule 11 CPC for rejection of plaint was allowed and the plaintiff-petitioner was directed to pay ad valorem Court fee on the amount claimed in the suit.

Learned counsel for the petitioner contended that a suit for recovery of ₹ 10 lacs was filed by the plaintiff-petitioner. In case of such liquidated amount of compensation, the same is always subject to adjudication by the trial Court and a contingent decree can be passed, requiring the plaintiff-petitioner to affix the requisite court fee if the ultimate amount of compensation exceeds proportionately to the court fee affixed by the plaintiff-

petitioner at the time of filing of the suit. It is not necessary that the trial Court would grant the liquidated amount. Grant of compensation is dependent upon nature of evidence to be led by the parties during trial.

**In Shiv Kumar Sharma Vs. Santosh Kumari, 2007**

**(4) Civil Court Cases 333 (SC)**, the Hon'ble Apex Court has held that even in case of specific amount claimed by the plaintiff, the determination would be made by the trial Court in respect of the amount to be awarded at a subsequent stage on the basis of evidence to be led by the parties. It is true that damages cannot be granted without payment of court fee, but at the same time, where damages are required to be adjudged on the basis of variety of evidence, a fixed court fee can be paid, obligating the plaintiff to make good the deficiency (if any) on determination of amount of compensation by the Court. In such an eventuality, the Court can pass a contingent/conditional decree on merits.

In **Hem Raj Vs. Harchet Singh, 1993 CCC 48**, this Court has held that the issue of court fee cannot be treated to be a preliminary issue. In a suit for damages and compensation, the tentative valuation of the suit for the purposes of court fee cannot be disputed. There is no objective standard available for determining the amount for which plaintiff has to value the suit in respect of relief claimed by him. The valuation put by the plaintiff is tentative in nature. The proposition laid down in **Sunita Rani**

**and another Vs. State of Punjab and others, 2015(3) PLR 580**

can be relied in the aforesaid context. In **Civil Revision No.5893 of 2016 titled 'Amandeep Sidhu Versus M/s Ultratech Cement Limited and others'**, this court has decided the lis in the aforesaid context and the order passed by this Court has been upheld by the Hon'ble Apex Court in SLP (C) No.3500 of 2017.

In the light of aforesaid facts, the impugned order passed by the trial Court is not legally sustainable. This revision petition is disposed of with a clarification that in case the amount of compensation is ultimately assessed by the trial Court on higher side then the plaintiff shall pay the requisite amount by making good the deficiency. The Court would be at liberty to ask the plaintiff to make good the deficiency in Court fee within a specified time.

In view of above, the trial Court is directed to decide the suit at the earliest.

**(RAJ MOHAN SINGH)**  
**JUDGE**

**April 01, 2019**

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- 1. Whether speaking/reasoned : Yes/No**
- 2. Whether reportable : Yes/No**