

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4122 of 2015 (O&M)

Date of Decision: 04.04.2019

Kamla Devi and others

...Appellants

VERSUS

Jasbir Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S. Sirphikhi, Advocate
for the appellants.

Mr. Ajay Pal Singh Rehan, Advocate
for respondents.

SURINDER GUPTA, J.

Jagir Singh son of Bawa Singh was murdered on 17.05.2006 in the area of village Sahoor Khurd, *tehsil* and district Gurdaspur. FIR No. 50 dated 17.05.2006 was registered against defendants-appellants at Police Station Kalanaur for offences punishable under Sections 302, 307, 324, 323, 148, 149 and 326 IPC. Plaintiffs have alleged that the deceased was getting pension of ₹3000/- per month which he had been spending on plaintiffs. They have also lost love and affection of their father and sought compensation of ₹3 lakhs.

2. Learned Additional Civil Judge (Senior Division), Gurdaspur dismissed the suit with the observation that they have not suffered any monetary loss on account of death of Jagir Singh.

3. In appeal, Additional District Judge, Gurdaspur observed that the deceased was getting pension to the tune of ₹4000/- per month and his income cannot be said to be less than ₹5000/- per month as he was owning

agricultural land. Age of the deceased was assessed to be 65 years and on

applying the multiplier of 5 and awarding ₹1,25,000/- towards funeral expenses and loss of consortium, compensation of ₹2,75,000/- was awarded.

4. Learned counsel for the appellants has argued that only question relevant to be considered in this case is quantum of compensation. He has relied on observations in case of **Lachman Singh and others vs. Gurmit Kaur and others, 1979 PLR 1**, wherein a Full Bench of this Court applying the principles of the India Fatal Accidents Act, 1885 (later referred to as 'the Act') has laid down principles to be observed while assessing the compensation in such cases. He has argued that in case of murder, compensation can be allowed as per provisions of 'the Act', as such, principles as laid down in above referred case are applicable to facts of this case. As per observations of Full Bench in above referred case, no compensation could be allowed towards loss of love and affection and loss of consortium. He has relied on observations in case of **Suba Singh and another vs. Davinder Kaur and another, 2011(13) SCC 296**, wherein Apex Court observed that in case of murder accused are liable to pay damages to dependents of deceased in claim petition under the provisions of 'the Act'.

5. Observations in case of ***Lachman Singh (supra)*** relate to grant of compensation as per provisions of 'the Act'. The point for consideration before Hon'ble Full Bench was as follows:-

“.....as to how the damages should be quantified which the offender, who is held responsible for terminating prematurely the life of another person by his culpable act, negligence or default is liable to pay to the legal representatives or the dependents of the deceased or, in other words, the determination of the amount of compensation which the legal

representatives or dependents are entitled to get from such offender.”

6 In case of **Suba Singh (supra)**, the accident had taken place in the year 1991 and award of compensation of ₹2,32,700/- was upheld. In this case the accident had taken place in the year 2006. If the money value as prevailing in the year 1991 is taken in comparison of the year 2006, amount of compensation of ₹2,75,000/- as awarded by the lower Appellate Court is not on higher side. Even the Full Bench in case of **Lachman Singh (supra)** had approved the multiplier of 16 for the deceased, who was 60 years of age while in this case lower Appellate Court has applied the multiplier of 5.

7. Learned counsel for the appellants has further argued that the deceased was recruited in Indian Army and had retired in the year 1981. This shows that his age was around 90 years while the lower Appellate Court has taken the same as 65 years.

8. The above argument of learned counsel for the appellants was considered by the lower Appellate Court. In the absence of any evidence lower Appellate Court has relied on the age as mentioned in the postmortem report. The mere fact that a person has retired from Indian Army in the year 1981 does not mean that in the year 2006, he was 90 years of age. It is quite possible that the person has taken premature retirement after 20, 25 or 30 years of service in the Army. Even if it be believed that the deceased retired after 30 years of service in the Army he may be around 50 years of age at the time of his retirement and around 70 years of age at the time of his death. However, in the absence of specific evidence, the Court below has committed no error in assessing age of deceased as mentioned in

postmortem report.

9. It is to be kept in mind that compensation awarded is not for death in an accident but for a murder for which plaintiffs have suffered great trauma. It would have taken a lot of time for them to attain normalcy and to reconcile with factum of death of Jagir Singh.

10. Keeping in view above facts, I do not find that amount of compensation awarded to plaintiffs-respondents by lower Appellate Court is on higher side, calling for any interference in this appeal, which has no merit.

Dismissed.

April 04, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No