

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**SAO No. 16 of 2016 (O&M)
Date of Decision: 13.05.2019**

Vipan Kumar and another

...Appellants

VERSUS

Lovely Kumar and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vaibhav Narang, Advocate
for the appellants.

Mr. B.D. Sharma, Advocate
for respondents.

SURINDER GUPTA, J. (Oral)

Heard.

Against judgment and decree passed by Civil Judge (Junior Division), Amritsar, allowing damages to the tune of ₹5 lakhs to plaintiffs-appellants for wrongful act and conduct of defendants-respondents, an appeal was filed before Additional District Judge, Amritsar, in which case was remanded to the trial Court with observations that manner of awarding compensation/damages is not based on established principles, which hold the field regarding assessing compensation and damages in such like cases. Ist Appellate Court was of the view that before deciding the matter opportunity should be allowed to parties to lead further evidence in the matter.

Learned counsel for the appellants submits that the trial Court has already relied on the evidence produced by plaintiff-appellants while concluding that they are entitled to damages of ₹5 lakhs from defendants-respondents. Ist Appellate Court could decide the appeal on the basis of

evidence already led by re-appreciating the same and by recording its own findings.

Learned counsel for respondents has no objection if this appeal is accepted and Ist Appellate Court is directed to decide the appeal on the basis of evidence already on record.

In view of above, this appeal is accepted. Order dated 09.12.2015 passed by Ist Appellate Court is set aside.

Parties are directed to appear before Ist Appellate Court/successor Court on 30.05.2019, on which date file of Civil Appeal No. 628 of 2014 shall be taken on board and Ist Appellate Court will proceed to decide the same on merit in accordance with law.

It is, however, made clear that nothing observed in this order shall be taken as expression of opinion on merits of this case.

May 13, 2019

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**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***