

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

204

**CR No. 3602 of 2018
Date of decision : 6.2.2020**

Gurpreet Singh

.....Petitioner

Vs.

The New India Assurance Co. Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. D.S. Sandhu, Advocate, for the petitioner

Mr. Rajesh Kumar Sharma, Advocate, for the respondent

Rajbir Sehrawat, J. (Oral)

This is a petition challenging the order dated 12.4.2018, passed by the trial Court, whereby the application filed by the defendant under Order 7 Rule 11 CPC has been allowed and the petitioner has been ordered to pay the ad valorem court fee on the amount claimed by the petitioner in the suit.

The facts giving rise to the present petition are that the plaintiff claimed in the suit that he had a Trailer bearing Registration No. PB05-L-6447, which was duly insured with the defendants/respondents for an IDV value of Rs.8,22,000/-. The insurance covered the loss on account of theft as well. Unfortunately, the said vehicle was stolen and the same could not be traced even on having been informed to the police. Thereafter, the plaintiff raised his claim with the Insurance Company. However, they had repudiated the claim of the plaintiff. Hence, the petitioner/plaintiff was forced to file the suit. With these facts, the amount of Rs.8,22,000/-was claimed as compensation; along with interest and other damages.

The suit was contested by the defendant/respondent. The defendant moved the application under Order 7 Rule 11 CPC pleading that since the plaintiff has claimed a specific amount as compensation, therefore, he is required to pay the ad valorem court fee on the claimed amount. The said application has been accepted by the trial Court and it has directed the plaintiff to pay the ad valorem court fee within 30 days. It is against that order, that the present revision has been filed.

Arguing the case, learned counsel for the petitioner/plaintiff has submitted that although the petitioner have claimed the liquidated amount as the compensation, however, the said amount is yet to be determined by the Court; after appreciating evidence led by the respective parties. Therefore, at this stage, the petitioner cannot be burdened with any amount of ad valorem court fee. The counsel has relied upon the judgment of this Court passed in **CR No. 5334 of 2018**, titled as '**Surjit Singh v. Jasmail Singh through his legal heirs**' decided on 30.10.2019, to support his submissions.

On the other hand, learned counsel for the respondent has submitted that since the plaint itself mentioned a specified amount as the claimed compensation, therefore, subject to the same being proved by the plaintiff, he could very well be awarded the same amount as well. Hence, the ad valorem court fee has to be paid upon the amount claimed in the plaint. Counsel has relied upon the judgments of this Court rendered in **CR No. 2550 of 2013**, titled as '**Jiwan Kumar Modi v. Nand Kishore Bhandari and another**' decided on 4.7.2013 and **CR No. 8307 of 2017**, titled as '**Nachattar Kaur v. Jarnail Kaur and others**' decided on 7.3.2019, to support his contention.

Having heard learned counsel for the parties and having perused the case file, this Court does not find substance in the arguments of learned counsel for the petitioner. It is not even disputed that the plaintiff himself has claimed an amount of Rs.8,22,000/-as the compensation, as specified in the plaint. If the plaintiff succeeds in proving his claim, this amount can very well be awarded to him. The Court fees is required to be paid on the amount claimed in the plaint. The provision contained in Section 7 of the Court Fees Act, 1870 specifically deals with this aspect, which is reproduced as under :-

'7. Computation of fees payable in certain suits – The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :-

for money :- (i) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically) – according to the amount claimed.”

A bare perusal of the above said provision shows that in case of suit for money claims, the court fees, in the first instance, is to be assessed as per the amount claimed in the suit and not necessarily as per the amount which could be awarded after appreciating the evidence. Since the plaintiff/petitioner himself has specified the amount of his claim in the plaint, therefore, in the first instance; he is liable to pay the ad valorem court fee upon this claim. This Court does not find any illegality or perversity in the order passed by the Court below in this regard.

Although learned counsel for the petitioner has relied upon the judgment of this court rendered in **Surjit Singh's** case (supra), however, a perusal of the said judgment does not clearly specify as to whether in that particular case, the claim qua any specified amount was made in the plaint or

not. On the other hand, learned counsel for the respondent has relied upon the judgment in the case of **Jiwan Kumar Modi** (supra), in which this point has been specifically considered and it has been held that if a specific amount is claimed in the plaint of a money claim, then the ad valorem court fee has to be paid as per the amount claimed in the plaint itself. The judgment in **Jiwan Kumar Modi** case (supra) has also considered the same judgment of Supreme Court, which was considered in case of **Surjit Singh** (supra). In this judgment of Supreme Court also there is no indication that the said case was relating to claim of specific amount in the plaint. Therefore, this Court finds itself in agreement with the judgment rendered in **Jiwan Kumar Modi's** case (supra).

In view of the above, finding no ground to interfere with the order passed by the trial Court, the present petition is dismissed qua merits of the present petition. However, the petitioner is granted further time to deposit the ad valorem court fees; within a period of 60 days from today.

Disposed of.

(RAJBIR SEHRAWAT)
JUDGE

6.2.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No