IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-6243-2015 (O&M)
Date of decision : 03.02.2020

Ajaib Singh and others

...Appellants

Versus

Arvish and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harkesh Manuja, Advocate for the appellants.

Mr. Sandeep Jasuja, Advocate for the respondents.

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ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the Regular Second Appeal against the findings of fact arrived at by the First Appellate Court while awarding the damages to the extent of ₹8,50,000/- on account of defendants having murdered father of the plaintiffs.

On 03.10.2016, following order was passed:-

> *"Learned counsel for the appellants submits that the limitation to file a suit under the Fatal Accidents Act, 1855, for recovery of damages on account of the death of any person, is two years and as such, the learned Civil Judge correctly relied upon the judgments of various High Courts, to dismiss the suit of the respondents, it having*

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been filed well beyond two years of the date of death of the deceased.

It is contended that the learned lower appellate Court has reversed that finding on the basis of a judgment of this Court in Sandeep Singh and others Vs. Malkit Singh and others, 2012 (2) PLR 461, wherein it was held that the limitation in a case falling under common law rights would be three years, whereas in a case falling under the Fatal Accidents Act, it would be 2 years, as has been statutorily provided.

Further, it is contended that the aforesaid reasoning was on the basis that an intentional killing would not come within the purview of a fatal accident, (obviously, it not being an accident but an intentional act) and, therefore, a suit for damages would arise out of a right in equity, under common law.

Adjourned to 07.10.2016."

Learned counsel for the appellants submits that on co-joint reading of Sections 6, 7 and 8 of the Limitation Act, 1963 and judgment passed by Hon'ble the Supreme Court in the case of ***Narayan Vs. Babasaheb and others, (2016) 6 SCC 725***, he does not have any further arguments to address on this aspect. However, he submits that the share representing widow of Harbhajan Lal is barred by time as she was major and, therefore, benefit of Sections 6, 7 and 8 of the Limitation Act, 1963 shall not be available to her.

It has been noticed that widow of the deceased is not the plaintiff in the present case. Still further, the distinction sought to be made by learned counsel for the appellants was neither subject matter of

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issue before the Courts below nor dealt with.

Since, both the plaintiffs were minor on the day the suit was filed which has been decided, this Court finds no occasion to examine the case of widow who is not before this Court. Hence, there is no ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

03.02.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

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