

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

CR-2326-2017

Date of Decision: October 31, 2022

S.R. Laddhar,		Petitioner
	<i>Versus</i>	
Mohan Nagpal and others		Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. D.S. Malwai, Advocate for the petitioner.
Mr. Siddharth Gupta, Advocate for respondent No.1.

HARKESH MANUJA, J. (ORAL)

Present revision petition has been directed against the order dated 14.12.2016 passed by the Court of Civil Judge (Senior Division), Bathinda; whereby an application under Order 7 Rule 11 CPC filed at the instance of petitioner/ defendant No.1 (hereinafter referred to as 'petitioner') has been dismissed.

The facts of the case are that respondent No.1/ plaintiff (hereinafter referred to as 'respondent No.1') filed a suit for damaged against petitioner as well as respondents No.2 to 5, alleging harassment and humiliation at their hands. The prayer clause of the plaint dated 22.09.2015 is reproduced hereunder:-

"It is, therefore, prayed that the suit of the plaintiff may kindly be decreed with costs and a decree for recovery of damages to the tune of Rs.20 lac as detailed in the heading of the plaint may kindly be passed with costs in favour of the plaintiff and against the defendants. The plaintiff may also be awarded future interest on the abovesaid amount @ 18% per annum with effect from the date of filing of the suit till

the date of realization. The plaintiff may also be awarded any other relief to which the plaintiff is found entitled to in the interest of justice.”

Petitioner moved an application under Order 7 Rule 11 CPC read with Section 151 CPC praying for rejection of plaint on the ground that once respondent No.1 had sought recovery of damages specifying the quantum at Rs.20 lacs, advalorem Court Fee should have been affixed on the said amount and in the absence thereof, the plaint was liable to be rejected. Respondent No.1 filed his objections to the application filed at the instance of petitioner.

Learned trial Court vide impugned order dated 14.12.2016 dismissed the application filed at the instance of petitioner/ defendant No.1, recording that as the amount of damages claimed was tentatively assessed in the plaint with an undertaking to pay the remaining Court fee as and when directed by the Court, the plaint could not be dismissed for want of deficiency of Court fee. It is the said order dated 14.12.2016 which has been challenged by way of present revision petition.

It has been contended on behalf of learned counsel for the petitioner that the trial Court committed an error of law while declining the prayer made by the petitioner. He submitted that once respondent No.1 himself has quantified the amount of damages, he was required to affix advalorem Court fee at least on the amount claimed. In this regard, he refers to the judgment passed by Hon'ble

Supreme Court in the case of **State of Punjab and others Vs. Dev Brat Sharma**, 2022 (2) RCR (Civil) 464.

On the other hand, learned counsel representing respondent No.1 submits that as the amount of damages claimed has only been tentatively assessed with a further undertaking that respondent No.1 shall pay the requisite fee as and when directed by the learned trial Court on the final determination of the amount of damages, the impugned order is just and fair and does not warrant any interference. In this regard, he places reliance on the judgment passed by this Court in case of **Amandeep Sidhu Vs. M/s Ultratech Cement Limited and others**, 2017 (1) PLR 786.

I have heard learned counsel for the parties and gone through the paper-book. I find merits in the contentions raised on behalf of the petitioner. Court fee, in a suit for damages is payable under Section 7 (i) of the Court Fees Act, 1870, as per the amount claimed. Section 7 (i) of the Act is reproduced hereunder for reference:-

*“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 perusal of the prayer clause made in the plaint which has been reproduced in the preceding part of the order shows that a specific prayer for recovery of damages to the tune of Rs.20 lacs has

been made at the instance of respondent No.1. Besides it, paragraphs No.17, 18 & 23 of the plaint are also relevant for the purposes of determination of the case in hand which are reproduced hereunder:-

- “17. That as mentioned above, false case got registered by the defendant No.1 at the instance of defendant 2, with an ulterior motive to injure the reputation of the plaintiff and to defame the plaintiff in the eyes of his relatives, friends, neighbours and general public at large and also to cause wrongful loss to the plaintiff and due to the act and conduct of the defendants, the plaintiff remained in Jail for three and half years for no fault as such the plaintiff is entitled to compensation to the tune of Rs.20 lacs from the defendants jointly and severally.*
- 18. That due to the said mala fide act of the defendants by harassing and humiliating the plaintiff by registration of false case and later on conviction the plaintiff also suffered from great mental tension agony, botheration, harassment, humiliation and as such the plaintiff is entitled to damages/ compensation from the defendants to the tune of Rs.20 lacs.*
- 23. That the value of the suit for the purposes of jurisdiction and court fee for the relief of recovery of damages is tentatively assessed as Rs.20 lacs as the amount of compensation/ damages claimed by the plaintiff in tentative amount which may be less or more after recording the evidence and the plaintiff undertake to pay the requisite court fee stamps on the amount so assessed to be the account of damages by the Hon’ble Court at the time of final conclusion of the trial and a court fee stamp of Rs.50/- is affixed on the tentative value of Rs.100/- on the plaint.”*

A perusal of the relevant portion from the plaint reproduced hereinabove, clearly shows that a specific claim of Rs.20 lacs as damages has been made therein. However, it is only while fixing value of the suit for the purposes of jurisdiction and Court fee, it has been tentatively assessed at Rs.20 lacs and Court fee of Rs.50/- has been affixed. Once the amount of damages claimed has been specifically quantified in the plaint, Court fee was required to be affixed on that specified amount. On the contrary, allowing any such affixation of Court fee as claimed by the respondent No.1, would amount to a conscious departure from the mandate of Section 7 (i) of the Act which clearly enjoins affixation of Court fee according to the amount claimed.

In the facts and circumstances of the present case, the value of the suit for the purposes of jurisdiction and Court fee for the relief of recovery of damages, tentatively assessed as Rs.20 lacs has to be understood that the respondent atleast excepts and claims damages to the tune of Rs.20 lacs though not certain about the final determination which, no doubt, shall always be subject to final determination by the Court, based on the evidence led by the parties. To the same effect are the observations made by this Court in **Sunita Rani and another Vs. State of Punjab and others**, 2015 (3) PLR 580; **Jai Bhagwan Goel Vs. Harjeet Kaur and others**, 2020 (1) RCR (Civil) 936; and **Kushalpal Singh and others Vs. Fortis Healthcare Limited and others**, 2020 (2) PLR 243 and relevant paragraphs of the same are reproduced hereunder for reference:-

“Para 15 of Sunita Rani’s case

15. *A perusal of the plaint filed by the petitioners in the present case shows that not only specific amount of Rs.8 lacs has been claimed as compensation, but even for the purpose of jurisdiction and court fee, the suit has been valued at Rs.8 lacs. Hence, to state that the court fee at a lesser tentative amount is payable is totally misconceived. There is no error in the order passed by the learned Court below. Both the petition are, accordingly, dismissed. However, the petitioners shall be at liberty to deposit requisite court fee on or before 31.08.2015.”*

“Para 10 of Jai Bhagwan Goel’s case

10. *In view of prayer for damages having been made to the extent of a specified amount, the case is squarely covered by the decision in Ranjit Kaur's case (Supra) for whether the plaintiff succeeds in claiming the amount of Rs.20 lakhs or not, is not to be gone into at the time of deciding the question whether proper Court fee has been affixed. The plaintiff may or may not succeed in getting the amount claimed but it is for him to establish his loss and affix Court fee thereon as it is well-settled that Court fee has to be determined on the basis of the entire reading of the plaint. Therefore, in terms of Section 7 (i) of the Court Fees Act, 1870, the plaintiff is liable to pay ad valorem court fee on the amount as claimed by him.”*

“Paras 11 & 12 of Kushalpal Singh’s case

11. *On the other hand, in a 'money suit' for damages or compensation, obviously the plaintiff has already claimed a specific amount as damages and therefore, for her/him to first say that he/she is seeking a particular amount by way of damages but then to thereafter say that, nevertheless, for the purpose of 6 of 10 valuation*

of the suit the damages are to be taken to be less than even 1% of what he actually seeks, would be a completely illogical paradox, in the opinion of this court.

Hence, once the plaintiff has chosen to seek damages for a specific quantified amount of money, he cannot then be seen to avoid paying court fee on that amount, by simply making an averment that for the purpose of court fee the suit would be valued at a far lesser amount.

12. *However, in a situation where the wording of the plaint was to the effect that the plaintiff seeks damages of only Rs.1,00,000/-, but leaves it to the discretion of the court to grant any higher amount after evidence is led, without specifying that amount at all, thereby leaving it entirely discretion to the court, then he may be required to pay court fee only according to the specific amount as claimed, and if the court for any reason, after due application of judicious mind, finds that a higher amount of compensation is to be awarded, then at that stage a higher amount could be awarded subject to payment of court fee on such higher amount.*

In the present case, however, the petitioner-plaintiffs have actually asked for damages/compensation of a specific amount of Rs.2,00,00,000/-, and therefore, they cannot be seen thereafter to whittle down the value of the relief sought, by simply adding a line to the effect that however a tentative compensation of a notional amount of Rs.1,00,000/- may be taken as the 'suit value' for the purpose of jurisdiction and court fee, even in a suit seeking damages/ compensation."

I also find support from the judgment rendered by the Hon'ble Supreme Court in **Dev Brat Sharma's** case (supra); wherein

it has been laid down that in a suit for compensation and damages, advalorem Court fee is payable on the amount claimed under clause (i) of Section 7 of the Act. Relevant para 21 of the same is reproduced hereunder for reference:

“21. It is only with respect to the category of suits specified in clause (iv) of Section 7 of the Act that the plaintiff has the liberty of stating in the plaint the amount at which relief is valued and Court-fees would be payable on the said amount. Liberty given under clause (iv) to the specific suits of six categories is not available to the suits falling under any other clause, be it (i), (ii), (iii) etc. Once the suit in question was a money suit for compensation and damages falling under clause (i) of Section 7 of the Act, ad valorem Court-fees would be payable on the amount claimed.”

As regards the judgment relied upon by learned counsel for respondent No.1, in view of the exposition of law detailed hereinabove as well as in the facts and circumstances of the present case, I am unable to accept the view accept therein.

In view of the reasoning recorded hereinabove, the revision petition is allowed. Impugned order dated 14.12.2016 passed by learned trial Court is hereby set aside.

At this stage, learned counsel for respondent No.1 submits that his client may be granted some reasonable time for deposit of the requisite Court fee.

Considering the facts and circumstances of the present case, I deem it appropriate to grant 02 months’ time to respondent No.1, so as to make good the deficiency in Court fee.

Pending application(s), if any, shall also stand disposed of.

October 31, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>