

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

**RSA No.774 of 1998 (O&M)
Date of decision: 13.07.2022**

State of Punjab

....Appellant

Versus

Kuldip Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhay Pal Singh Gill, AAG, Punjab
for the appellant.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this regular second appeal is for setting-aside the judgment and decree dated 03.11.1995 passed by the trial Court vide which the respondent/plaintiff in the capacity of a legal representative of one Nazar Singh, has filed the suit for recovery of Rs.2.00 lacs, as defendant No.3/Nirmal Singh, committed his murder with a service rifle, while on official duty.

As per the claim set up in the plaint, on 28.07.1987, defendant No.3/Nirmal Singh was on duty and Nazar Singh, who was an employee of the liquor vend, was also present and they were consuming liquor. One Constable Balwinder was also present and in the meantime, defendant No.3/Nirmal Singh by using his service rifle committed murder of Nazar Singh. It is further stated in the plaint that Nazar Singh was murdered and an FIR was registered under Section 302 read with Section 304 IPC.

It is further the case of the plaintiff that since defendant No.3/Nirmal Singh, was a Constable of Punjab Police and while on duty, he has committed the murder of Nazar Singh, therefore, it is the State Government, who is jointly and severally liable to pay damages to the plaintiffs. It is also stated that Nazar Singh (deceased) was aged about 25 years, at the time of his death.

The suit was contested by the respondent/State as well as defendant No.3.

The trial Court vide its judgment and decree dated 03.11.1995, decreed the suit but held that it is only defendant No.3/Nirmal Singh, who is liable to pay the amount.

The plaintiffs filed an appeal before the Lower Appellate Court, which was allowed vide judgment and decree dated 19.04.1997, holding the defendants No.1 and 2 with defendant No.3 i.e. the State of Punjab are, jointly and severally liable to pay damages.

Feeling aggrieved against the said judgment and decree dated 19.04.1997, the State has preferred the present appeal, challenging the aforesaid judgment and decree passed by the Lower Appellate Court.

This appeal is pending since 1998.

Counsel for the State, on instructions, has argued that the entire decretal amount of Rs.3.99 lacs already stands paid to the plaintiffs/decreed-holders. It is further argued on behalf of the appellant that the Lower Appellate Court has wrongly held the State liable for the joint liability though, it was an individual act of defendant No.3/Nirmal

Singh, for which the State cannot be directed to indemnify the action of defendant No.3/Nirmal Singh.

After hearing the counsel for the appellant – State, I find no merit in the present appeal. Both the Courts below has recorded a concurrent finding of fact that at the time, when defendant No.3/Nirmal Singh committed the murder of Nazar Singh, he was on official duty and he was having his official service rifle, which was used in commission of the offence. Therefore, the Lower Appellate Court rightly held that the negligency of the servant’s act is the liability of master itself and therefore, the trial Court wrongly absolved the liability of the State of Punjab.

In view of the above, I find no illegality or infirmity in the present appeal and the same is, accordingly, dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No