

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Regular Second Appeal No.4881 of 2010 (O&M)

Date of Decision: December 13, 2022

Sat Pal

...Appellant.

Versus

Ram Nath (since deceased) through his L.Rs and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Ashok Khubber, Advocate,
for the appellant.

Mr.S.S.Dinarpur, Advocate,
for the respondents.

MANOJ BAJAJ, J.

Appellant (Defendant No.1) has preferred this regular second appeal to challenge the judgment and decree dated 15.09.2010 passed by the Additional District Judge, Kurukshetra in Civil Appeal No.19 of 2010, whereby it has affirmed the judgment and decree dated 24.01.2009 passed by the Additional Civil Judge (Senior Division), Kurukshetra in Civil Suit No.503 of 2005, partly decreeing plaintiffs' suit qua defendant No.1 for recovery of ₹20,000/-.

Briefly stated, the facts of the case as per the plaint are that plaintiffs filed a suit for recovery of Rs.50,000/- as damages against the defendants, *inter-alia*, on the grounds that the defendants are real brothers and are inimical towards the plaintiffs for no fault on their part at all. Rather they have been assisting and helping both the defendants as and when required. The defendants planned to fetch money from the plaintiffs by way

of filing a false claim petition under Section 163-A Motor Vehicle Act, 1988 before Accident Claims Tribunal, Kurukshetra on 15.09.2003 on the basis of false and concocted story. On receipt of the notice of the said claim petition, plaintiffs requested defendants as to why they have filed the false claim petition, but they did not pay any heed. Even defendant No.2 joined hands with defendant No.1 in order to teach a lesson to the plaintiffs. The said claim petition was dismissed on 10.11.2004 and the award has become final.

The claim of the plaintiffs was contested by defendants by way of filling a written statement by raising preliminary objections that plaintiffs have not come to the court with clean hands, they have suppressed the material facts from the court and that they have no locus-standi and cause of action to file the present suit etc. On merits, they have submitted that the claim petition was filed legally on the basis of DDR which was lodged as plaintiff No.1 caused the accident with the motor cycle and himself got admitted defendant No.1 in the hospital and also informed the police. Defendant No.2 has no concern whatsoever with the matter involved in the suit.

After completion of pleadings of the parties, the civil Court framed in all nine issues, and thereafter, the parties adduced their respective evidence and considering the same, the Additional Civil Judge (Senior Division), Kurukshetra, vide judgment and decree dated 24.01.2009 proceeded to partly decree the suit.

Aggrieved against the said judgment and decree dated 20.12.2016, the defendants preferred appeal before the Additional District Judge, Kurukshetra, but the same was dismissed by way of impugned

judgment and decree dated 15.09.2010. Hence this regular second appeal.

During the course of hearing, when confronted with the maintainability of the appeal in view of Section 102 Civil Procedure Code as the dispute involved in the appeal is less than ₹25,000/-, learned counsel for the appellant does not dispute this fact. Thus, considering the nature and value of the dispute, the present appeal is not maintainable.

Dismissed.

December 13, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No