

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

RSA-3821-2015(O&M)

Date of decision:-19.12.2022

Mohinder Singh Sood

...Appellant

Versus

Anjana Sood and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.G.S. Punia, Sr.Advocate, Advocate with
Ms.Harveen Kaur, Advocate
for the appellant.

Mr.Vijay Lath, Advocate
for the respondents.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that Ms.Anjana Sood – daughter and Master Amit Sood – minor son of Mohinder Singh Sood, residents of House No.2626/1, Sector 44-C, Chandigarh plaintiffs had filed a suit for maintenance and other expenses against their father Mohinder Singh Sood son of Sh.Hardial Singh Sood, Sr.Assistant, Transport Department, Government of Punjab, Chandigarh defendant.

2. As per the case of the plaintiffs, they are residing with their mother Smt.Sunita Devi on account of strained relations between their parents; defendant Mohinder Singh Sood had left the matrimonial home in

June, 1993 and started residing at Patiala along with his mother and a married brother; the defendant has refused and neglected to maintain his children - the plaintiffs, whereas mother of plaintiffs is just a matriculate and after being deserted by the defendant, she got employment as a daily wager in Punjab School Education Board, Mohali and subsequently got a regular job as a Clerk in Municipal Council, Mohali, where she is still serving getting monthly salary of Rs.4,100/- along with fixed medical allowance of Rs. 250/-per month; the mother of the plaintiffs met with a very serious accident on 9.12.1996, in which her pelvic bone was fractured and her left foot was crushed; she has been operated upon four times for her foot and still more operations are required to make the foot functional; resultantly she has suffered permanent disability of 23% qua her whole body and 67% in relation to her both lower limbs; therefore becoming a handicapped person; she cannot do house hold work and also cannot board a bus and is unable to perform many other routine jobs like washing, cooking etc.; she goes to her office in a rickshaw; she also had to spend a lot of money on her medication and treatment; she is under heavy debt on account of money, which she had borrowed for her operations; she has spent Rs. 2.5 lacs on her treatment so far; the defendant did not contributed even a single rupee nor he came to enquire about her health/condition and to meet the plaintiffs; the meager salary earned by the mother of the plaintiffs is hardly sufficient to meet her own needs and she is unable to sustain her children; the plaintiffs are studying and they do not keep good health; not only they are frail and fragile but they have developed squints in their eyes; resultantly, they are unable to study in a

normal manner; they have been advised correctional surgeries/operations, but they are unable to afford those because of heavy cost, although these operations are very essential for the plaintiffs to lead normal life; their matrimonial prospects are also adversely affected on account this eye defect; plaintiff No.1 is a patient of epilepsy, whereas plaintiff no. 2 has got a kidney problem and they remained under constant medication; they have to take private tuitions to cope up with their syllabus; plaintiff No.1 has appeared in Class X examination and is now preparing for J.E.T. for diploma courses; plaintiff No. 2 is also student of Government Model School, Sector 44, Chandigarh. According to the plaintiffs, they do not own and possess any movable or immovable property and are unable to maintain themselves, whereas the defendant is drawing a handsome salary of Rs. 14,000/-per month; he is living at Patiala in his parental house.

According to the plaintiffs, the maintenance allowance of Rs.400/- per month awarded to them does not come to them easily and without expenses, because they have to spend amount on fee of the lawyer and bear other miscellaneous expenses for recovery thereof. The plaintiff no.1 will be of marriageable age after completing her education and there will be at least requirement of Rs. 2 lacs for meeting the expenses for her education, medical care and marriage; the defendant being her father is morally and legally bound to provide for the said expenses; each of the plaintiffs is also entitled to maintenance at the rate of Rs. 2500/- per month till plaintiff No. 1 gets married and plaintiff No. 2 becomes 18 years old. In addition to that, the plaintiffs are also entitled to get maintenance of Rs. 2500/- per month each for the last three years

amounting to Rs.1.8 lacs. As such, the plaintiffs had filed the suit.

3. Upon notice, the defendant appeared and filed written statement contesting the suit inter alia raising preliminary objections that the suit is not maintainable as the plaintiffs are getting permanent maintenance under section 125 Cr.P.C. from the defendant. On merits, the defendant had submitted that he had never deserted the plaintiffs, but it was their mother, who turned the defendant out of his own house; the plaintiffs and their mother are residing in the house, which was purchased by the defendant with his own funds; the defendant was forced to live with his widow mother at Patiala, who is dependent on him; the defendant never refused to maintain the plaintiffs, rather it was the mother of the plaintiffs, who kept the custody of the minor children while driving the defendant out of his house. According to the defendant, mother of the plaintiffs is getting salary of Rs. 7,500/-per month along with all other benefits of regular employee and if the mother of the plaintiffs is unable to maintain the plaintiffs in any manner, the defendant is ready to maintain the plaintiffs if their custody is given to him. According to the defendant, he is getting salary of Rs.6,066/- per month after compulsory deductions; his mother who is a widow is dependent upon him; the application for maintenance filed by mother of the plaintiffs was withdrawn by her as compromised. Refuting the remaining assertions, he prayed for dismissal of the suit

4. On the pleadings of the parties, following issues were framed:

1. Whether the plaintiffs are entitled for maintenance etc. from the

defendant? OPP.

2. Whether the suit of the plaintiffs is not maintainable as alleged?

OPD.

3. Whether the proper Court fee has not been affixed by the plaintiffs?

OPD.

4. Relief.

5. The parties were afforded opportunities to lead evidence in support of their respective claims.

6. After hearing the learned counsel for the parties, the trial Court decided issue No.1 in favour of the plaintiffs and against the defendant holding that an amount of Rs.7,000/- per month should be paid for plaintiffs No.1 and 2 each w.e.f. the date of filing of the suit till the date plaintiff No.2 attains the age of majority and plaintiff No.1 i.e. daughter of the defendant gets married and the amount already received by the plaintiffs during the pendency of the suit or in any other proceedings for maintenance shall be subject to adjustment. The plaintiffs were also held entitled for litigation expenses to the tune of Rs.15,000/-. Issues No.2 and 3 were decided against the defendant. As a result of findings on issues, the suit of the plaintiffs was decreed in terms of the verdict given on issue No.1. This was so done vide judgment and decree dated 16.8.2010.

7. Feeling aggrieved by the said judgment and decree, the plaintiffs and defendant had filed appeals in the Court of District Judge, Chandigarh, which were assigned to Additional District Judge, Chandigarh and the same were clubbed for the reason of arising out of the

same judgment and decree. Additional District Judge, Chandigarh vide judgment and decree dated 6.12.2014 dismissed both the appeals upholding the judgment and decree passed by the trial Court.

8. Being dissatisfied with the judgments and decrees passed by the Courts below, the defendant has filed the present regular second appeal before this Court, notice of which was given to the respondents, who put in appearance through counsel.

9. I have heard learned counsel for the parties besides going through the record.

10. In this case, the relationship between the parties is not disputed i.e. plaintiff Anjana Sood being daughter and Amit Sood being son of defendant Mohinder Singh Sood. It is further not in dispute that the plaintiffs are residing with their mother Smt.Sunita Devi separate from their father Mohinder Singh Sood – defendant and relations between Mohinder Singh Sood and Smt.Sunita Devi are strained. Furthermore, it is not the case of the appellant/defendant that plaintiffs have got sufficient means to meet their needs rather both of them come out to be dependent upon their parents for getting their financial needs meet. Appellant Mohinder Singh Sood being father of the plaintiffs is under a moral and legal obligation to provide maintenance amount to them. The trial Court on deep analysis of the basic needs of the plaintiffs, income of the defendant and other facts and circumstances had arrived at the conclusion that a sum of Rs.7,000/- per month each should be awarded to both the plaintiffs payable by the defendant. The First Appellate Court did not see any reason to interfere with the findings recorded by the trial Court and

rather put seal of approval on the judgment and decree passed by the trial Court by dismissing the appeal seeking enhancement of maintenance amount filed by the plaintiffs as well as the other appeal filed by defendant seeking setting aside of that amount.

11. After hearing the counsel for the parties and going through the record, I am not inclined to take a different view in the matter and to upset the judgment of the trial Court, which is quite detailed well reasoned, based on proper appraisal of evidence and correct interpretation of law which do not call for any interference.

12. No substantial question of law arises in this appeal.

Since the main appeal is dismissed, the miscellaneous application(s), if any stands disposed of accordingly.

19.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable : Yes/No