

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

(117)

RSA No.1161 of 2019 (O&M)

Date of Decision: 13.09.2023

Sat Narayan and another

...Appellants

Versus

Kanwal Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Saajan Singla, Advocate, for the applicant/appellants.

Mr. Rajesh Malik, Advocate, for respondent No.1.

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA, J.(ORAL)

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 18.08.2018 and 30.11.2018 passed by the Courts below whereby a suit for damages filed at the instance of respondents/plaintiffs has been decreed to an extent of Rs.1 Lac along with interest @ 6% per month.

2. Briefly stating, the respondent No.1/plaintiff filed a suit for damages against the appellants and the proforma respondent with the averments that a part of sugarcane crop standing in his fields was burnt and lost on 22.04.2016 on account of an act of negligence, committed by the appellants-defendants who put on fire the remains of their wheat crop standing in their field which spread to the joining fields of respondent No.1 plaintiff thereby causing the damage. It was further pleaded that even loss of crop was assessed under the orders of Deputy Director (Agriculture), Sonapat.

3. On the other hand, the claim in the suit was contested by the appellants/defendants, denying the factum of putting their fields on fire for the

purpose of burning the remains of their wheat crops. It was rather pleaded that the fire took place on account of an act of mischief by someone else.

4. The trial Court vide judgment and decree dated 18.08.2018 decreed the suit filed at the instance of respondent No.1-plaintiff to the following effect:-

“As a sequel to my finding on aforesaid issues, the suit of plaintiffs is succeeds and decreed. A decree for damages is hereby passed in favour of the plaintiff and against defendant No.2 and 3 to the effect that plaintiff is entitled for damages of Rs.1 Lac with interest @ 6% per month from the date of filing the suit till its realization. No order as to cost. Decree sheet be prepared accordingly. Un-exhibited documents, if any, be returned to the parties as per rules, if so desired. File be consigned to record room after due compliance.”

Aggrieved by the judgment and decree dated 18.08.2018, the appellants/defendants filed first appeal, however, the same was dismissed by the first appellate Court vide judgment and decree dated 30.11.2018 thereby affirming the findings recorded by the trial Court.

5. Impugning the aforementioned judgments and decrees, learned counsel for the appellants submits that the factum of fire in the fields of appellants/defendants was not established to have been done at their instance in the present case. He also submits that no evidence was led on behalf of respondent No.1/plaintiff to show as to how much actual loss was suffered by him on account of the alleged fire. He further points out that though from the report dated 28.04.2016, the quantity of sugarcane crop lost in the fire could be made out, however, there was no evidence available on record so as to quantify the same in terms of money. Learned counsel for the appellants

wrong while awarding interest @ 6% per month the cause of action at best being based on loss of crop of an agriculturist and the same not being a commercial transaction.

6. On the other hand, learned counsel for the respondent No.1/plaintiff submits that the findings recorded by the Courts below were based on proper appreciation of evidence and thus did not warrant any interference. He further submits that the quantification of the amount of damages was rightly done by the Courts below on the basis of evidence available on record.

7. I have heard learned counsel for the parties and gone through the paper book.

8. From a cumulative analysis of the judgments passed by the Courts below, it is established on record that the fire in the fields of the appellants/defendants which occurred on 22.04.2016 even extended up to the fields of respondent No.1/plaintiff thereby causing loss of his sugarcane crop. Though, a plea was sought to be raised at the instance of appellants/defendants that the fire took place on account of an act of mischief by someone else and was never carried out by the appellants/defendants, however, in the facts and circumstances of the present case and the evidence available on record, the said plea is meritless as no effort was ever made by the appellants/defendants so as to lodge any kind of complaint based on any alleged mischief and in the absence thereof, the same was rightly discarded.

9. Further, the loss of standing crop and its quantity has been duly proved on record through an inspection report dated 28.04.2016, carried out under the order of Deputy Director (Agriculture), Sonipat, which has been duly proved on record as Ex P-3. Apart from that, no direct evidence is

available on record to assess & quantify the damages towards the loss of crops, though, an attempt has been made by the Courts below to determine the same based on some guesswork and have estimated the same to Rs.1 lac besides awarding interest @ 6% per month, but in the absence of any substantial evidence available on record as regards the evaluation of the damages or the loss per quintal it cannot be sustained. Moreover, the award of interest @ 6% per month is highly unjustified in terms of the fact that the cause of action at best is based on loss of crop and is not a commercial transaction. Thus, considering the fact that the incident did take place and admittedly the respondent No.1/plaintiff lost his crop, the amount of damages assessed by the Courts below to the tune of Rs.1 Lac which is based on some guesswork is thus, upheld but without any interest thereupon.

10. Thus, in view of the discussion made hereinabove, present appeal is disposed of and the judgments and decrees passed by the Courts below are modified to the extent that respondent No.1/plaintiff shall be entitled for damages to an extent of Rs. 1 Lac *in toto* without any interest thereupon as full and final claim.

11. Pending application, if any, stand disposed of.

13.09.2023
anil

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No