

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA-176-2019 (O&M)

Date of Decision: 11.10.2023

Sohan Lal

....Appellant

VERSUS

Kiranjit Kaur and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. D.S.Randhawa, Advocate,
for the appellant.

KARAMJIT SINGH, J.

For convenience, the parties herein are described as per the recitals before the learned trial Court.

2. The defendant has come up in this regular second appeal assailing the learned trial Court judgment and decree dated 23.9.2016, as upheld by the learned first Appellate Court vide its judgment and decree dated 4.10.2018 since both the Courts below have returned concurrent findings against him in a suit for damages filed by the plaintiffs.

3. Brief facts of the case of the plaintiffs are that plaintiff No.1 is widow, plaintiff No.2 is minor son and plaintiffs No.3 and 4 are parents of deceased-Gursewak Singh who was 35 years of age at the time of his death and was running a workshop and she also used to cultivate the some land owned by his father and used to take another 8 acres of land on lease for cultivation and his monthly income was ₹ 50,000/- and that the plaintiffs were totally dependent on the deceased; that on 23.10.2011, Gursewak Singh and his brother-Sikander Singh had gone to their field for irrigation

of crops and after irrigating the fields, both of them were returning to their house and at that time, Gursewak Singh was going ahead of Sikander Singh and they reached near the house of the defendant at about 10:00 p.m. and in the meantime, defendant-Sohan Lal armed with wooden *Sota* came out of his house and started abusing Gursewak Singh and proclaimed to teach him a lesson for picking up a quarrel with him and then, the defendant gave repeated blows of wooden *sota* on the head of Gursewak Singh within the view of Sikander Singh and Gursewak Singh collapsed at the spot. In the meantime, Sikander Singh raised alarm on which the defendant fled away from the spot with his weapon. Then, Sikander Singh and other persons took Gursewak Singh to Civil Hospital, Bathinda but Gursewak Singh died in the way to hospital. The matter was reported to the police by Sikander Singh on which FIR No.118 dated 24.10.2011 was registered under Section 302 IPC against the defendant. Post mortem examination of the dead body of Gursewak Singh was conducted on 24.10.2011 and thereafter, the defendant was arrested by the police and the police presented the challan against him in the Court of Sessions Judge, Bathinda; that the plaintiffs claimed damages worth ₹ 5 lakh from the defendant for causing death of Gursewak Singh.

4. The suit was contested by the defendant who filed written statement wherein all the averments made in the plaint were denied being wrong and it was pleaded that the suit be dismissed.

5. On the basis of the rival pleadings of the parties, the following issues were framed in the case : -

1. Whether the plaintiffs are entitled to recovery of ₹ 5,00,000/- as compensation/damages on account of pecuniary loss? OPP

2. Whether the plaintiffs have no cause of action or locus standi to file the present suit? OPD
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the plaintiffs are estopped by their act and conduct from filing the present suit? OPD
5. Whether the plaintiffs have not come to the Court with clean hands? OPD
6. Relief.

6. Counsel for the plaintiffs examined PW1-Sikander Singh who witnessed the entire occurrence and PW2-Kiranjeet Kaur widow of the deceased. The plaintiffs also produced jamabandi for 2011-12 Ex.P1, certified copy of post mortem report Ex.P2, certified copy of FIR Ex.P3, certified copy of charge sheet Ex.P4 and copy of judgment dated 23.11.2012 Ex.P5.

7. In order to rebut the case of the plaintiffs, the defendant himself appeared in the witness box as DW2 and also examined DW1-Des Raj.

8. The learned trial Court after going through the entire evidence partly decreed the suit and awarded compensation/damages worth ₹ 3 lakh and the defendant was directed to pay the same to the plaintiffs.

9. Being aggrieved, both the parties filed separate appeals against judgment and decree dated 23.9.2016 passed by the learned trial Court. The Court of Additional District Judge, Bathinda while re-affirming the findings recorded by the learned trial Court dismissed the appeal filed by the defendant while the appeal filed by the plaintiffs was partly allowed and judgment passed by the learned trial Court was modified and it was held

that the plaintiffs are entitled to get compensation/damages worth ₹ 3 lakh along with interest @ 7.5% P.A.

10. Being aggrieved the defendant has filed the present appeal.

11. Counsel for the defendant, while assailing the impugned judgments passed by the Courts below, *inter alia* contends that the plaintiffs have failed to prove their case and no reliable evidence is available in order to establish that Gursewak Singh was murdered by the defendant. It is further submitted that there was no motive for the defendant to kill Gursewak Singh. He has further contended that the plaintiffs are not entitled to get any compensation from the defendant as has been awarded by the Courts below and the evidence led by the plaintiffs to prove the factum of murder is not reliable as no independent witness was examined by the plaintiffs to prove the same.

12. I have considered the submissions made by the counsel for the appellant.

13. In the present case, the suit was filed by the plaintiffs claiming damages for the murder of Gursewak Singh husband of plaintiff No.1, father of plaintiff No.2 and son of plaintiffs No.3 and 4.

14. In order to prove their case, the plaintiffs examined PW1-Sikander Singh to prove eye witness account and the said witness specifically deposed that Gursewak Singh was murdered by the defendant. Even certified copy of post mortem report of the deceased Ex.P2 and FIR NO.118 dated 24.10.2011 Ex.P3 which was got registered on the statement of PW1 in the concerned police station with regard to murder of Gursewak Singh are also placed on record by the plaintiffs and both these documents corroborate eye witness account given by PW1-Sikander Singh.

Furthermore, from the perusal of Ex.P5, it is evident that the defendant faced trial and was convicted by the Court of Sessions Judge, Bathinda for committing murder of Gursewak Singh. During arguments, counsel for the appellant has not disputed the fact that the appeal against the said judgment of conviction is pending in this Court.

15. In view of above, this Court is of the view that both the Courts below rightly concluded that the defendant caused death of Gursewak Singh on 23.10.2011.

16. Admittedly, age of the deceased at the time of his death was about 35 years and the Courts below assessed daily wages of the deceased as ₹ 300/- to ₹ 400/- by considering the deceased to be earning his livelihood by doing labour and resultantly, assessed the total compensation as ₹ 3 lakh. This Court is of the view that the aforesaid amount of compensation is just and reasonable. Even the interest awarded by the first appellate Court is also reasonable.

17. In light of above, this Court does not find any factual or legal infirmity in the impugned judgments calling for any interference. No question of law muchless substantial question of law arises for consideration by this Court.

18. Consequently, the appeal stands dismissed.

(KARAMJIT SINGH)
JUDGE

October 11, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No