

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3613 of 2022

**Reserved On: 09.11.2023
Pronounced On: 11.01.2024**

Chanderpal and Another

... Petitioner(s)

Versus

Satbir Singh (Deceased) through his Legal Representatives

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.A.Sheoran, Advocate
for the petitioner(s).

Mr. V.P.Sangwan, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This revision petition has been filed by the defendants to assail the correctness of the order passed by the trial Court while allowing the application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) to bring on record the legal representatives of the plaintiff (respondent herein) while dismissing the petitioners’ application to dismiss the suit on the ground that it has abated on account of the death of the plaintiff.

2. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

3. The learned counsel representing the petitioners while relying upon *M.Veerappa v. Evelyn Sequeira and Others (1998) 1 SCC 556*,

submits that the suit for damages and compensation on account of the bodily

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injuries suffered abates with the death of the injured and, therefore, the trial Court has erred in passing the impugned order.

4. On the other hand, the learned counsel representing the respondent, while relying upon the judgment passed in ***Basant Kaur v. Gajinder Singh and Others 1995 (3) PLR 505***, contends that at this stage, it would not be appropriate to dismiss the suit.

5. Firstly, it shall be noted here that late Sh.Satbir Singh had filed a suit for decree of declaration to the effect that he is entitled to get compensation as damages on account of the injuries caused by the defendants with the help of their family members on 14.11.2012. It has been alleged that he along with his wife, father and other family members were sitting in the courtyard when the defendants along with their family members entered their house and caused injuries to them with the help of weapons. He received grievous injuries and an FIR No. 135, dated 15.11.2012, under Section 148, 149, 307, 323, 325, 452 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) was registered at Police Station Behal, against the defendants and their family members. Both the defendants including their family members were arrested. They were also convicted by the Court of Sessions vide judgment dated 15.09.2015, and were sentenced to five years rigorous imprisonment while claiming that the condition of the plaintiff became critical day by day due to the injuries suffered by him which forced the plaintiff’s family to shift him to the C.M.C. Hospital, Hisar, for better treatment and they have incurred expenditure of nearly ₹5,00,000/- on medical treatment and transportation

etc. He has suffered permanent disability due to the attack and is now

unable to even sit and stand without the help of others.

6. As already noticed, after the plaintiff died, an application filed under order XXII Rule 3 CPC to bring on record his legal representatives was allowed.

7. This Court has carefully read the judgment passed in *M.Verappa's case (supra)*. The aforesaid suit was filed against an Advocate who firstly filed the Special Leave Petition after a considerable delay and subsequently withdrew the same without any instructions from the plaintiff. The Supreme Court examined the context in which the expression “other personal injuries” has been used under Section 306 of the Indian Succession Act, 1925. Ultimately, the Supreme Court permitted the suit to continue while making certain observations that if the entire suit claim is founded on torts, the suit would undoubtedly abate, however, if the action is founded partly on torts and partly on contract, then such part of the claim as it relates to torts would stand abated and the other part relating to the contract shall survive.

8. In *Basant Kaur's case (supra)*, after examining the judgment passed in *M.Verappa's case (supra)*, the learned Single Judge of this Court held that if the injuries tangibly affected his estate or has caused an accretion to the estate of the wrong doer, then the suit shall continue as the maxim of “*actio personalis cum moritur persona*” would not be applicable. The Delhi High Court in *M-Power Energy India (P) Limited v. Sumana Mazumdar 2022 SCOnline Delhi 3312* held that at this stage, it would not be appropriate to dismiss the suit as abated.

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claimed not only for the amount spent on treatment and transportation but also on account of the fact that the plaintiff became physically disabled on account of the injuries. In these circumstances, the trial Court has only permitted the legal representatives of the plaintiff to come on record to enable them to continue with the suit. The petitioners shall have a liberty to file an application before the trial Court for framing the additional issues which shall be decided by the Court in accordance with law while deciding the suit.

10. With the observations made above, the present revision petition is disposed of.

(Anil Kshetarpal)
Judge

January 11, 2024
“DK”

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