

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

RSA No.238 of 2020

Reserved on : 13.02.2024

Date of Decision: 20.02.2024

Jassa Singh deceased through LRs & Others

....Appellants

VERSUS

Jarnail Singh @ Karnail Singh & Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shivam Sharma, Advocate for
Mr. M.S. Joshi, Advocate for the appellants.

ALKA SARIN, J.

1. This regular second appeal is by the plaintiff-appellants challenging the judgement and decree dated 02.09.2019 of the First Appellate Court whereby the judgement and decree dated 26.02.2018 passed by the Trial Court was modified and the quantum of compensation was reduced.

2. The plaintiff-appellants filed a suit for recovery against the defendant-respondents claiming compensation for the murder of Gurdial Singh. It was averred that on 24.06.2010 while Gurdial Singh was trying to clear the water in a drain during rain, the defendant-respondents attacked him and committed his murder. According to the plaintiff-appellants, who are the sons of Gurdial Singh, the deceased Gurdial Singh was leading the family and that the family was dependent on Gurdial Singh but defendant-respondents have caused mental as well as economic loss to the plaintiff-appellants and hence the suit for recovery of compensation of Rs.5,00,000/- with interest. In their written statement the defendant-respondents raised

preliminary objections and on merits stated that some unknown persons had caused injuries to Gurdial Singh and the defendant-respondents had been falsely implicated due to previous enmity between the parties. It was stated that Gurdial Singh was 80 years old and that the family of the plaintiff-appellants was not dependent on Gurdial Singh. No replication was filed by the plaintiff-appellants.

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

1. Whether plaintiffs are entitled to the damages as prayed for ? OPP
2. Whether plaintiffs have no locus-standi and cause of action to file the suit ? OPD
3. Whether suit of the plaintiffs is not maintainable ? OPD
4. Whether suit is bad for mis-joinder and non-joinder of necessary parties ? OPD
5. Relief.

4. Vide judgement and decree dated 26.02.2018 the Trial Court decreed the suit of the plaintiff-appellants and held them entitled to recover Rs.5,00,000/- from the defendant-respondents with interest @ 6% per annum from the date of death of Gurdial Singh i.e. 24.06.2010 till its realization. The appeal of the defendant-appellants was partly allowed by the First Appellate Court vide judgement and decree dated 02.09.2019 and plaintiff-appellants were held entitled to compensation of Rs.2,10,000/- alongwith interest @ 7% per annum from the date of death of Gurdial Singh

till realization. Hence, the present regular second appeal by the plaintiff-appellants.

5. Learned counsel for the plaintiff-appellants has contended that the impugned judgement and decree of the First Appellate Court are illegal and erroneous and based upon conjectures and surmises. It is argued that the First Appellate Court erred in reducing the amount of compensation from Rs.5,00,000/- to Rs.2,10,000/-. As per counsel the appeal of the defendant-respondents ought to have been dismissed.

6. Heard learned counsel for the plaintiff-appellants and perused the record.

7. Both the Courts have reached concurrent findings of fact that the defendant-respondents caused the death of Gurdial Singh. However, the Trial Court did not delve into any reasoning for fixing the compensation amount as Rs.5,00,000/-. The First Appellate Court correctly appraised the evidence on the record to reach a conclusion regarding the income of the deceased Gurdial Singh and the amount of compensation to be awarded to the plaintiff-appellants. The First Appellate Court held that *“In this case the age of deceased can be taken from the age recorded in postmortem report Ex.P1, which is 70 years as alleged by the defendants. So, at the time of death, Gurdial Singh was of aged about 70 years and not 60 years as alleged by the plaintiffs. Gurdial Singh, deceased belongs to a family engaged in agricultural profession. So, his contribution towards the family could have been by way of assistance in agriculture. In such circumstances, his monthly contribution can be taken to minimum of Rs.3000/- per month towards the family after excluding his own expenses and he is deemed to be*

contributing Rs.36,000/- per annum. Considering the law laid down by the Hon'ble Apex Court in case titled "Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77", as the deceased was aged about 70 years, at the time of his death, as is depicted in the postmortem report, the multiplier of 05 is applied and thus loss of contribution by the deceased towards his family comes to Rs.36000/- x 5 = 1,80,000/- and apart from it, Rs.15,000/- is awarded as compensation towards loss of estate and sum of Rs.15,000/- is also awarded as funeral expenses. In this way, total compensation comes to Rs.2,10,000/-, which the plaintiffs are entitled to recover from the defendants alongwith interest @7% per annum from the date of death of Gurdial Singh ...". Counsel for the plaintiff-appellants has been unsuccessful to show how the determination of compensation by the First Appellate Court is illegal or erroneous. There is no material available on the record to establish the income of deceased Gurdial Singh at the time of his death. No other point has been argued.

8. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.02.2024

Aman Jain

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO