



In the High Court of Punjab and Haryana at Chandigarh

RSA No. 2538 of 2023 (O&M)

Reserved on: 15.1.2025

Date of Decision: 11.2.2025

Gurmail Singh

.....Appellant

Versus

Gurnam Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Ms. Harpreet Kaur Gill, Advocate
for the appellant.

Mr. Vishal R. Lamba, Advocate and
Mr. Himmat Singh Deol, Advocate
for respondents No. 1 and 2.

SURESHWAR THAKUR, J.

1. In Civil Suit No. 370 of 11.6.2011, an affirmative decree was made, on 16.8.2018, by the learned Civil Judge concerned, whereby, the relief claimed by the plaintiffs in the said suit, inasmuch as, a decree for recovery of an amount of Rs. 3.00 lacs along with interest @ 9% per annum from 15.6.2010, arising on account of death of Joga Singh, becoming endowed to them.

2. The said affirmative decree became assailed by defendants one Modan Singh (deceased) and Gurmail Singh (appellant herein), before the learned first Appellate Court concerned by filing **CA No. 357 of 2018**. The respondents herein also preferred an appeal bearing **CA No. 54 of 2023** seeking modification of the order (supra) passed by the learned Civil Judge concerned, and, for decreeing their suit for Rs. 6,50,000/- along with costs.

The learned first Appellate Court through a common verdict made on



10.3.2023 upon both the appeals (supra), partly allowed the appeal bearing **CA No. 357 of 2018** filed by the appellant herein, and, dismissed the appeal bearing **CA No. 54 of 2023** filed by the respondents herein.

3. Feeling aggrieved from the verdict (supra) of the learned First Appellate Judge, thus the appellant Gurmail Singh has instituted the instant RSA before this Court.

4. Since against the order (supra) passed by the first Appellate Court upon **CA No. 54 of 2023**, the respondents herein have failed to challenge the said order, thereby the verdict rendered on the said appeal acquires a binding and conclusive effect.

Facts of the case

5. Before proceeding to make an adjudication upon the matter, it is necessary to cull out the necessary facts.

6. A suit for recovery of Rs. 6,50,000/- along with interest @ 24% per annum from 15.6.2010 till its actual and final realization along with all costs as compensation, became filed by the plaintiffs against defendants-appellant on account of death of Joga Singh.

7. It has been averred in the suit, that on 15.6.2010, at about 3.00 P.M., Joga Singh was plucking Mungi crop. When plaintiffs No. 1 to 3 went to serve tea to Joga Singh, they saw that Modan Singh-defendant No. 1 armed with a kahi, Gurmail Singh-defendant No. 2 armed with salang, and, Randhir Singh-defendant No. 3 armed with Tangli were beating Joga Singh. Gurmail Singh gave two salang blows on the back of Joga Singh, as a result Joga Singh fell down. Subsequently, Modan Singh gave kahi blow on the head and chest of Joga Singh. The plaintiffs raised an alarm and started

taking care of Joga Singh. It is also averred that Joga Singh also disclosed to



the plaintiffs the names of the defendants, their weapons and the injuries caused to him by them, and, died on the spot. It is further averred that Joga Singh was hail and hearty, and, was retired from military. The said Joga Singh was getting 7000/- per month as pension, besides was also doing the the agriculture and dairy farming. The said Joga Singh was expected to be alive upto the age of 80 years. It is also averred that since due to the stoppage of pension and other income, loss became incurred to the plaintiffs, therefore, they are entitled to recover Rs. 6,50,000/- with interest.

8. The defendants contested the said suit by filing their written statement, wherein they averred that the said Joga Singh had expired in mysterious conditions. It is further averred therein, that since Mohinder Singh, brother of Joga Singh, who was unmarried had transferred his property measuring 7¼ acres in the name of defendant No. 1, therefore the plaintiffs and Joga Singh became inimical towards the defendants.

9. The said suit became decreed vide judgment dated 16.8.2018, and, the plaintiffs were held entitled to receive compensation of Rs. 3 lacs from the defendants along with interest @ 9% per annum from 15.6.2010 till actual realization.

Submissions of the learned counsel for the appellant

10. The learned counsel for the appellant submits, that both the Courts below have failed to appreciate the evidence adduced by the appellant. He further submits that appellant Gurmail Singh has stepped into the witness box as DW-1 and proven his case, however, the Courts below have wrongly ignored the said evidence. Therefore, it is prayed that the impugned orders be quashed and set aside.



Submissions of the learned counsel for respondent No. 2

11. On the other hand, the learned counsel for respondent No. 2 opposes the instant appeal, and, prays that the instant appeal be dismissed.

Inferences of this Court

12. The operative part of the judgment (supra) dated 16.8.2018 rendered by the learned Civil Court on the civil suit (supra) becomes extracted hereinafter.

“x x x x

11. As far as question of loss caused to plaintiffs on account of murder of Joga Singh is concerned. Plaintiffs allege that Joga Singh was hail and hearty and retired from military and was getting Rs.7000/- per month as pension and was also doing the work of agriculture and dairy farming. Said Joga Singh was expected to be alive upto the age of 80 years. So, the loss of Rs.1,00,000/- occurred to the plaintiffs due to stoppage of pension, Rs.3,00,000/- from agriculture and Rs.1,00,000/- from dairy farming for one year. The plaintiffs spend Rs.1,50,000/- for litigation charges, traveling charges and counsel fees etc., and are entitled to recover Rs.6,50,000/-with interest. In order to substantiate the alleged loss, plaintiffs placed before this court Ex. P4 which is certificate of discharge of deceased Joga Singh from Military. As per which Joga Singh was discharged from military on 1.11.78. Thus although no document of pension of Joga Singh is on record but it is established that deceased Joga Singh was a retired military official. Even Jamabandies Ex P5 and Ex P6 are on record to establish share of deceased Joga Singh in agricultural property. Thus deceased Joga Singh was also an agriculturist. Thus, after the death of Joga Singh there was a loss of agricultural work and income. Subsequently if plaintiffs kept animals can not compensate the loss incurred due to an earning hand in the family. But as there is no document to establish the annual agricultural income of



deceased. or his exact pension. Even there is no document to establish the litigation expenses suffered by plaintiffs. But plaintiffs are certainly entitled to damages on account of death of Joga Singh. Thus, as deceased Joga Singh is established to be a hale and hearty person at the time of his death. He was a retired military official and was also doing agricultural work. So, in view of the considered circumstances, the estimated loss at the death of Joga Singh is assessed as Rs. 3 lacs. Accordingly, plaintiffs are entitled to compensation of Rs 3 lacs from the defendants along with interest @ 9% per annum from 15.6.2010 till actual realization.

Accordingly, issue no 1 is decided in the favour of plaintiffs and against the defendant.”

13. Being aggrieved against the verdict (supra), defendants one Modan Singh (deceased) and Gurmail Singh (appellant herein), preferred an appeal before the learned first Appellate Court concerned bearing **CA No. 357 of 2018**. The respondents herein also preferred an appeal bearing **CA No. 54 of 2023** seeking modification of the order (supra) passed by the learned Civil Judge concerned. The learned first Appellate Court through a common verdict made on 10.3.2023 upon both the appeals (supra), partly allowed the appeal bearing **CA No. 357 of 2018** filed by the appellant herein, and, dismissed the appeal bearing **CA No. 54 of 2023** filed by the respondents herein. The operative part of the judgment (supra) rendered by the learned first Appellate Court becomes extracted hereinafter.

“x x x x

26. In my opinion by no stretch of imagination, the amount of compensation can be termed to be more than 1,80,000/-. The learned Lower Court without adopting any formula had worked out the amount of damages to the tune of Rs.3,00,000/- hypothetically. The amount of compensation to be shared by the defendants.

27. Therefore, the findings of the learned Lower Court on issue



no.1 are upheld but with modification of the amount by adopting the formula in Motor Accident Claim cases. Furthermore it is observed that although it is a case filed under the head of suit of recovery whereas it is to be filed suit for recovery, on account of murder of Joga Singh (deceased), therefore, merely on this account, the suit cannot be said to be not maintainable and the learned Lower Court has rightly held the issue no. 2 in favour of plaintiff and against defendants. The findings of learned Lower Court on issue no.3 are also upheld.

28. *The grounds of appeal stood explained.*

29. *On the basis of the above discussion made by me in the preceding paragraphs of the judgment, it is observed that in the present appeal in hand, on the appraisal of evidence, there found to be no material irregularity in the impugned judgment and decree passed by the Learned Lower Court. The findings of the Learned Lower Court on issue No.1 are modified and findings of the learned Lower Court on issues no.2 to 4 are upheld. Therefore, the appeals are decided as below:-*

(I) CA No.357 of 2018 titled as Modan Singh vs Gurnam Singh-Partly allowed.

(II) CA No.54 of 2023 titled as Modan Singh vs Gurnam Singh - Dismissed”

x x x x”

14. Since through an order of even date passed upon **CRA-D-131-DB-2012** this Court has dismissed the appeal preferred by the appellant Gurmail Singh against the verdict of conviction and the consequent thereto order of sentence, made by the learned trial Court concerned on 10.12.2011. Moreover when therebys this Court has affirmed the said order (supra) wherebys the appellant became convicted qua the charges framed against him, besides also affirmed the consequent thereto sentence of imprisonment.

15. Since the claim for compensation is rested upon the preset appellant murdering the deceased, who is the predecessor-in-interest of the plaintiffs. Moreover, since the said fact has been established through the



verdict (supra) becoming pronounced by the learned trial Court concerned, therebys the verdict rendered by the learned first Appellate Court on Civil *Appeal No. 357 of 2018* also requires qua the same becoming affirmed.

Final Order

16. In aftermath, this Court does not find any merit in the appeal (supra) preferred by the appellant, and, is constrained to dismiss it. Consequently, the instant RSA stands dismissed. The impugned judgments and decrees are maintained and affirmed.

17. Decree sheet be drawn accordingly.

18. No order as to costs.

19. The pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 11, 2025

Gurpreet

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