



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

CR-8541-2025

Date of Decision: 08.12.2025

MEENA AND OTHERS

....Petitioners

Versus

VICTOR (SINCE DECEASED) THROUGH HIS LRS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Divyadeep Walia, Advocate
for the petitioners.

Parmod Goyal, J. (Oral)

Petitioner is aggrieved by impugned order dated 18.12.2024 (Annexure P-7), passed by learned Civil Judge (Junior Division), Kaithal whereby application for impleadment of LRs of plaintiff was allowed and also order dated 03.11.2025 (Annexure P-10) whereby review application seeking review of order dated 18.12.2024 was dismissed.

2. Learned counsel for petitioners has argued that the suit stood abated on death of deceased/plaintiff and therefore, no LRs could be impleaded. He has placed reliance upon Section 306 of Indian Succession Act, 1925 (hereinafter referred to as the 1925, Act) and has argued that allowing impleadment of LRs of plaintiff is based upon concession made by learned counsel for defendants which is against law and, therefore, said concession is not binding upon defendants. Reliance has been placed upon judgment titled *Union of India & Anr. Vs. S.C. Parashar* (Civil Appeal No.1267 of 2006) decided on 24.02.2004 to argue that concession made against law is not binding upon the defendants.



3. In the present case, vide impugned order dated 18.12.2024, learned Court of first instance has simply permitted impleadment of LR of deceased plaintiff who had sought damages for malicious prosecution against the defendants. The cause of action had arisen in favour of plaintiff as FIR was recorded against him wherein he was acquitted and he claimed that he was prosecuted maliciously and had sought damages against the defendants.

4. Section 306 of Indian Succession Act, 1925 is reproduced as under :-

306. Demands and rights of action of or against deceased survive to and against executor or administrator.— All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code (45 of 1860), or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory.

5. The star argument on behalf of petitioners is that in a suit for damages the cause of action does not survive to LR in view of provisions of Section 306 of 1925 Act.

6. On consideration of Section 306 of the Act, it is clearly made out that it is only in circumstances where the relief sought could not be enjoyed or granting it would be nugatory that suit will not be prosecuted by deceased person and there is an exception to this bar under Section 306 of the Act in case action is for defamation or assault as defined in Indian Penal



Code or other personal injuries not causing the death of party.

7. Reading of Section 306 of the Act clearly shows that it is only in those cases where relief sought is personal in nature and cannot be enjoyed by the deceased plaintiff or would be nugatory, only in those circumstances the suit cannot be prosecuted or defended against a deceased person. However, where relief sought could be enjoyed by the LRs and is not nugatory then suit can proceed further. Therefore, it is made out that in view of provisions of Section 306 of the Act the suit had not abated as plaintiff had sought compensation in terms of money which would be added to his estate and LRs would be entitled to enjoy the estate. LRs have rightly been impleaded on death of plaintiff.

8. No fault with order dated 18.12.2024 can be found. Similarly, no fault with order of dismissing review application preferred by petitioners can be found. No just reasons to review order dated 18.12.2024 had arisen in favour of petitioner. The argument that learned counsel for defendants/petitioner has wrongly given concession against law is without basis in view of interpretation of Section 306 of the Act noticed above. The judgment referred by learned counsel for petitioners is of no help to the case of petitioners as same has no applicability in facts of the present case. Petition is accordingly dismissed.

08.12.2025
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No