

2026:PHHC:033882



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

RSA-169-2023 (O&M)
Date of decision: 26.02.2026

Kirandeep Kaur

....Appellant

V/s

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Chirag Girdhar, Advocate,
Ms. Kirandeep Kaur, Advocate and
Mr. Amanveer Singh, Advocate,
for the appellant.

VIKRAM AGGARWAL, J. (ORAL)

This is plaintiff's appeal against the judgment and decree dated 06.07.2022 passed by the Court of District Judge, Faridkot, dismissing the appeal against the judgment and decree dated 12.04.2018 passed by the Court of Civil Judge (Junior Division), Faridkot, vide which the suit of the plaintiff for recovery of damages/compensation, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff filed a suit for recovery of damages/compensation from defendant No.3-Dr. Alka Goyal and for initiating appropriate disciplinary action against the said defendant, for being careless, casual and negligent, while

performing her official duties, while examining the plaintiff and further for grant of necessary sanction to prosecute the said defendant.

3.1 It was claimed that while the plaintiff was pregnant, she had been examined by defendant No.3-Dr. Alka Goyal and was made to undergo various tests, including Ultrasound. It was further averred that defendant No.3, on the basis of the said report, told the plaintiff and her husband that the fetus in her womb, was not growing well and was having inherent pre-natal defects right from the conception. It was further told by the said defendant that the fetus would mature into a child full of deformities and hence, it should be aborted. It was further asserted that the relevant treatment papers prepared by defendant No.3 were not legible. The plaintiff, through her counsel, had sent a legal notice to defendant No.3, but instead of clarifying the things, the said defendant sent a totally wrong reply dated 07.06.2014 and similar was the position in her further reply dated 12.08.2014. It was, thus, averred that having failed to explain the treatment prescribed by her, the conduct of defendant No.3 was apparent.

4. Defendants contested the suit. In the written statement filed by defendant Nos 1 and 2, preliminary objections regarding maintainability; court fee; jurisdiction and no notice under Section 80 CPC having been served upon said defendants, were taken. On merits, the averments made in the plaint were denied.

4.1 In a separate written statement filed by defendant

No.3, it was asserted that there was no formal check-up as alleged in the plaint. It was further averred that defendant No.3 had medically examined the plaintiff and prescribed some medicines and tests, which were in the interest of the plaintiff so that she could continue with her pregnancy. It was further asserted that the plaintiff having already undergone two abortions, it was a high risk pregnancy and the said fact was duly mentioned in prescription slip dated 31.01.2014. It was further the case of defendant No.3 that she had treated the plaintiff as per the medical ethics and medical science and that proper treatment was given to her. It was further averred that defendant No.3 did not have any knowledge of any alleged second opinion taken by the plaintiff.

5. From the pleadings of the parties, the following issues were framed by the trial Court:

- “1. Whether the plaintiff is entitled to a relief of recovery of the amount of damages/compensation as prayed for? OPP**
- 2. Whether the plaintiff is entitled to further relief of grant of necessary sanction to prosecute the plaintiff as prayed for? OPP**
- 3. Whether the plaintiff is entitled to other reliefs as prayed for? OPP**
- 4. Whether the suit of the plaintiff is not maintainable in the present form? OPD**
- 5. Whether proper Court fee has not been affixed in the plaint? OPD**
- 6. Whether present Court has no jurisdiction to hear and try the present suit?**
- 7. Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD**

8. Whether the suit is liable to be dismissed on the grounds of not serving of notice under Section 80 of CPC? OPD

9. Relief.”

6. Parties led their respective evidence.

7. The trial Court, vide judgment and decree dated 12.04.2018, dismissed the suit. The appeal preferred against the said decision was also dismissed by the Court of District Judge, Faridkot, vide judgment and decree dated 06.07.2022, leading to the filing of the instant appeal.

8. I have heard learned counsel for the appellant.

9. Learned counsel for the appellant submits that both the Courts gravely erred in not framing an issue regarding the prescription slip given by defendant No.3, vide which she had negligently advised the plaintiff as regards the deformities in the fetus in her womb. It is further argued that though an application had been filed by the appellant before the first Appellate Court in this regard, the first Appellate Court, decided the main appeal, without deciding the said application.

9.1 It is further argued that once no issue had been framed before the trial Court as regards the negligent treatment given to the plaintiff by defendant No.3, the plaintiff could not lead any evidence in this regard.

9.2 While referring to the prescription slip dated 31.01.2014 (Ex.D1), it is argued that defendant No.3 had advised for abortion of the fetus, but since the trial Court did not frame any issue in this regard, relevant evidence was not

produced. It is yet further argued that even though no evidence was led, on the face of document Exhibit D.1, the negligence on the part of defendant No.3 was writ large and, therefore, the findings recorded by both Courts, are liable to be set aside.

10. I have considered the submissions of learned counsel for the appellant, but find the same to be devoid of merit.

11. Both Courts found that the plaintiff, in her testimony deposed that defendant No.3 had never advised to get her third fetus aborted. She had further deposed that she had not visited any other Doctor except defendant No.3. On the basis of the testimony of the plaintiff, it was found that the plaintiff was not entitled to any damages/compensation. This Court finds no illegality in the said finding.

12. So far as the contention of learned counsel for the appellant that no issue was framed as regards the prescription slip (Exhibit D.1) is concerned, this Court is of the considered opinion that firstly, once an issue with regard to the damages/compensation was framed, it was bounden duty of the plaintiff to prove her case as to her entitlement to such relief and the plaintiff cannot be heard saying that in the absence of any specific issue, she was prevented from leading any evidence.

13. Secondly, it may be noticed that the suit was filed on 19.12.2014 and the same was finally decided by the trial Court on 12.04.2018. If the plaintiff was really aggrieved of non-framing of any specific issue as has been claimed in the present appeal, the plaintiff ought to have moved appropriate application for the said purpose. However, having remained in slumber for

all these years, it is not open to the plaintiff to claim that the trial Court did not frame any specific issue as regards the prescription slip of defendant No.3.

14. Both Courts recorded concurrent findings of facts on the basis of evidence on record. Such findings cannot be said to be suffering from any patent illegality or infirmity, which may warrant interference by this Court in the present Regular Second Appeal.

15. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

16. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

26.02.2026
ds

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