

## Gurpreet Singh Vs New India Assurance Co. Ltd.

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Feb. 6, 2020

**Acts Referred:** Court Fees Act, 1870 " Section 7  
Civil Procedure Code, 1908 " Order 7 Rule 11

**Hon'ble Judges:** Rajbir Sehrawat, J

**Bench:** Single Bench

**Advocate:** D.S. Sandhu, Rajesh Kumar Sharma

**Final Decision:** Disposed Of

### Judgement

Rajbir Sehrawat, J

This is a petition challenging the order dated 12.4.2018, passed by the trial Court, whereby the application filed by the defendant under Order 7 Rule

11 CPC has been allowed and the petitioner has been ordered to pay the ad valorem court fee on the amount claimed by the petitioner in the suit.

The facts giving rise to the present petition are that the plaintiff claimed in the suit that he had a Trailer bearing Registration No. PB05-L-6447, which

was duly insured with the defendants/respondents for an IDV value of Rs.8,22,000/-. The insurance covered the loss on account of theft as well.

Unfortunately, the said vehicle was stolen and the same could not be traced even on having been informed to the police. Thereafter, the plaintiff raised

his claim with the Insurance Company. However, they had repudiated the claim of the plaintiff. Hence, the petitioner/plaintiff was forced to file the

suit. With these facts, the amount of Rs.8,22,000/-was claimed as compensation; along with interest and other damages.

The suit was contested by the defendant/respondent. The defendant moved the application under Order 7 Rule 11 CPC pleading that since the plaintiff

has claimed a specific amount as compensation, therefore, he is required to pay the ad valorem court fee on the claimed amount. The said application

has been accepted by the trial Court and it has directed the plaintiff to pay the ad valorem court fee within 30 days. It is against that order, that the

present revision has been filed.

Arguing the case, learned counsel for the petitioner/plaintiff has submitted that although the petitioner have claimed the liquidated amount as the

compensation, however, the said amount is yet to be determined by the Court; after appreciating evidence led by the respective parties. Therefore, at

this stage, the petitioner cannot be burdened with any amount of ad valorem court fee. The counsel has relied upon the judgment of this Court passed

in CR No. 5334 of 2018, titled as 'Surjit Singh v. Jasmail Singh through his legal heirs' decided on 30.10.2019, to support his submissions.

On the other hand, learned counsel for the respondent has submitted that since the plaint itself mentioned a specified amount as the claimed

compensation, therefore, subject to the same being proved by the plaintiff, he could very well be awarded the same amount as well. Hence, the ad

valorem court fee has to be paid upon the amount claimed in the plaint. Counsel has relied upon the judgments of this Court rendered in CR No. 2550

of 2013, titled as 'Jiwan Kumar Modi v. Nand Kishore Bhandari and another' decided on 4.7.2013 and CR No. 8307 of 2017, titled as 'Nachattar Kaur

v. Jarnail Kaur and others' decided on 7.3.2019, to support his contention.

Having heard learned counsel for the parties and having perused the case file, this Court does not find substance in the arguments of learned counsel

for the petitioner. It is not even disputed that the plaintiff himself has claimed an amount of Rs.8,22,000/-as the compensation, as specified in the plaint.

If the plaintiff succeeds in proving his claim, this amount can very well be awarded to him. The Court fees is required to be paid on the amount

claimed in the plaint. The provision contained in Section 7 of the Court Fees Act, 1870 specifically deals with this aspect, which is reproduced as under

:-

'7. Computation of fees payable in certain suits "The amount of fee payable under this Act in the suits next hereinafter mentioned shall be

computed as follows :-

for money :- (i) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable

periodically) " according to the amount claimed."

A bare perusal of the above said provision shows that in case of suit for money claims, the court fees, in the first instance, is to be assessed as per the

amount claimed in the suit and not necessarily as per the amount which could be awarded after appreciating the evidence. Since the plaintiff/petitioner

himself has specified the amount of his claim in the plaint, therefore, in the first instance; he is liable to pay the ad valorem court fee upon this claim.

This Court does not find any illegality or perversity in the order passed by the Court below in this regard.

Although learned counsel for the petitioner has relied upon the judgment of this court rendered in Surjit Singh's case (supra), however, a perusal of the

said judgment does not clearly specify as to whether in that particular case, the claim qua any specified amount was made in the plaint or not. On the

other hand, learned counsel for the respondent has relied upon the judgment in the case of Jiwan Kumar Modi (supra), in which this point has been

specifically considered and it has been held that if a specific amount is claimed in the plaint of a money claim, then the ad valorem court fee has to be

paid as per the amount claimed in the plaint itself. The judgment in Jiwan Kumar Modi case (supra) has also considered the same judgment of

Supreme Court, which was considered in case of Surjit Singh (supra). In this judgment of Supreme Court also there is no indication that the said case

was relating to claim of specific amount in the plaint. Therefore, this Court finds itself in agreement with the judgment rendered in Jiwan Kumar

Modi's case (supra).

In view of the above, finding no ground to interfere with the order passed by the trial Court, the present petition is dismissed qua merits of the present

petition. However, the petitioner is granted further time to deposit the ad valorem court fees; within a period of 60 days from today.

Disposed of.