

**(2014) 04 P&H CK 0096**

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

**Case No:** R.S.A. No. 690 of 2011 and 713 of 2011 (OandM)

Surjit Singh

APPELLANT

Vs

Gursharan Singh

RESPONDENT

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**Date of Decision:** April 4, 2014

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 120B, 201, 302

**Citation:** (2014) 4 RCR(Criminal) 506

**Hon'ble Judges:** Rakesh Garg, J

**Bench:** Single Bench

**Advocate:** Rakesh Nagpal, Advocate for the Appellant; Amardeep S. Gill, Advocate for the Respondent

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### **Judgement**

Rakesh Garg, J.

Daljit Singh, father of the plaintiff-respondents, was allegedly killed by the appellants on 26.08.1998. F.I.R. No. 64 dated 02.10.1998 was registered in this regard on the basis of a complaint lodged by Sukhwinder Kaur, widow of Daljit Singh (since deceased). After investigation, challan under Section 302, 201 and 120-B IPC was presented against the appellants and thereafter, trial took place and ultimately the appellants No. 2 and 3 were convicted by the Sessions Judge, Jalandhar vide judgment dated 06.11.2001. However, appellant No. 1 was acquitted giving him the benefit of doubt. Criminal Appeal No. 648-DB of 2001 against the aforesaid judgment of the Sessions Judge, Jalandhar was dismissed by this Court on 15.03.2011. The plaintiff-respondents filed the instant suit for recovery of Rs. 5.00 lacs against the appellants submitting that Daljit Singh was the sole bread-earner of their family and all the plaintiffs were fully dependent upon him. It was further averred that at the time of murder, Daljit Singh was about 42 years of age and was feeding the family by cultivating the land and also running a dairy and he was earning Rs. 10,000 per month from the aforesaid resources. After his death, no male member was left in the family and the family had come under distress and living in

destitute. Future of the plaintiffs had become uncertain and thus, the appellants were liable to pay compensation to them. It has been further averred by the plaintiffs that they were entitled to higher compensation of Rs. 10.00 lacs but because of the Court-fee they were restraining their claim to Rs. 5.00 lacs only.

2. The appellants contested the suit stating that the same was pre-mature as the criminal case against them was pending. It was further stated that they were falsely implicated in the case.

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

1. Whether the plaintiffs are entitled to the recovery of Rs. 5 lac? OPP

2. Whether the suit is not maintainable? OPD

3. Whether the suit is pre-matured? OPD

4. Whether the plaintiffs have no cause of action to file the present suit? OPD

5. Relief.

4. Parties led evidence in support of their respective claims and on the basis of evidence on record, the trial Court came to a conclusion that from the evidence led by the parties, it was established that the appellants have committed murder of Daljit Singh on 25.08.1998 and thus, the plaintiff-respondents were entitled to compensation for causing untimely death of Daljit Singh.

5. It may further be noticed that while determining the compensation payable to the plaintiff-respondents, the trial Court had taken Rs. 3,000 as monthly income of Daljit Singh (since deceased), who was an able bodied person of 42 years of age. After making a cut of 1/3rd presumed to be spent on himself, the trial Court fixed annual dependency of the claimants only at Rs. 24,000 and after applying the multiplier of 14 years, determined the compensation of Rs. 3,36,000. Apart from that, Rs. 14,000 were also directed to be paid on account of expenses for performing last rites of Daljit Singh.

6. It may also be noticed that while decreeing the suit, the trial Court had directed the appellants to pay decretal amount within two months from the date of passing the decree and in case they fail to make such payment it was held that the plaintiffs would be entitled to interest @ 9% per annum on the decretal amount from the date of decree till its realization.

7. Feeling aggrieved from the aforesaid judgment and decree of the trial Court, both the parties filed appeals before the first appellate Court. The defendant-appellants filed RCA No. 41 of 2008 challenging the relief granted in favour of the plaintiffs; whereas the plaintiff-respondents filed RCA No. 71 of 2008 seeking further enhancement of the compensation as well as raising a grievance with regard to non

payment of interest on the amount awarded. Both these appeals were decided by a common judgment dated 04.09.2010 by the lower appellate Court. The appeal filed on behalf of the defendant appellants challenging the judgment and decree of the trial Court was dismissed, whereas the appeal filed by the plaintiff-respondents was partly accepted and judgment and decree of the trial Court was slightly modified to the extent that the plaintiffs were held entitled to interest @ 9% per annum on the decretal amount of Rs. 3,50,000 from the date of filing of the suit till its actual realization.

8. Both the instant appeals have been filed before this Court at the behest of the defendants arising out of the aforesaid common judgment of the lower appellate Court and the decrees passed thereon, and thus, both these appeals are being decided by this common judgment.

9. Following substantial questions of law have been framed by the appellants for consideration of this Court in both the appeals:

1. Whether the appellant No. 1 can be held liable to pay the damages in the event of his acquittal in criminal case which is on the basis of the same set of facts and evidence?

2. Whether the recovery suit can be decreed till the pendency of the appeal filed against the criminal case?

3. Whether the suit is pre-mature?

4. Whether the amount awarded as compensation/damages is very much on the higher side?

5. Whether the respondents are entitled to interest from the date of filing of the suit?

6. Whether the judgments and decrees passed by the learned courts below are perverse?

10. Learned counsel appearing on behalf of the appellants has vehemently argued that the SLP filed on their behalf against the judgment of their conviction is still pending. Moreover, appellant No. 1 has been acquitted of the charges and appellants No. 2 and 3 have been convicted on the basis of a false complaint and thus, the impugned judgments and decrees of the Courts below are liable to be set aside. Further grievance has been raised on behalf of the appellants to the effect that compensation as well as interest, as granted to the plaintiff-respondents, is on the higher side.

11. However, learned counsel representing the respondents has opposed the arguments as raised on behalf of the appellants and has submitted that the appellants No. 2 and 3 have been convicted on the basis of evidence on record and after proving the charges against them. Even appellant No. 1 has been acquitted

only on the basis of benefit of doubt. There is voluminous circumstantial evidence, which has also been placed on record of this case and which supports the findings of the courts below with regard to the crime committed by the appellants. He has further submitted that in fact the compensation awarded is on the lower side and no interference is warranted by this Court in the impugned judgments and decrees of the Courts below.

12. I have heard learned counsel for the parties and perused the impugned judgments and decrees of the Courts below. Keeping in view the fact that both the Courts below, on appreciation of evidence on record, have recorded a concurrent finding to the effect that the appellants were responsible for the untimely death of Daljit Singh and further that appellants No. 2 and 3 have been convicted under the criminal law, this Court is of the opinion that no interference is warranted in this regard. So far as the argument raised on behalf of the appellants with regard to excessive compensation/interest granted to the plaintiffs is concerned, suffice it to say that there is nothing on record on the basis of which the findings returned by the courts below warrant any interference by this Court. There is no denial to the fact that Daljit Singh was of 42 years of age and his monthly income has been taken at the lowest, i.e. of a labourer. Even no grievance can be raised against applying the multiplier of 14 keeping in view the age of the deceased.

In view thereof, this Court is of the opinion that no substantial question of law arises in both these appeals and the same, being without any merit, are dismissed.