
(2014) 08 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 460 of 1988

Nasib Kaur and Others

APPELLANT

Vs

Gurmail Singh and Others

RESPONDENT

Date of Decision : 06-08-2014

Acts Referred:

Citation : (2015) 177 PLR 6

Hon'ble Judges : Muttaci Jeyapaul, J

Bench : Single Bench

Advocate : Amandeep Kaur for P.S. Kang, Advocates for the Appellant

Judgement

Muttaci Jeyapaul, J.—The plaintiffs being the legal heirs of Dalbir Singh who was murdered by the respondents sought for compensation of Rs. 1 lac alleging that the plaintiffs lost the only earning member in the family on account of the murder of Dalbir Singh committed by the defendants. The defendants resisted the suit on the ground that they were falsely implicated in a case of murder of Dalbir Singh and they were convicted. The fine of Rs. 10,000/- was imposed on each of the defendants and the said amount was paid as compensation to the plaintiffs. Therefore, the plaintiffs are not entitled to any compensation as pleaded, it was contended.

2. The trial Court having applied the multiplier of 16 considering the age of Dalbir Singh at the time of murder and his contribution of Rs. 350/- per month to his family assessed the compensation at Rs. 67,200/-. Inasmuch as a sum of Rs. 30,000/- which was awarded as compensation by the High Court in the criminal case was already paid to the plaintiffs, a decree for a sum of Rs. 37,200/- was passed by the trial court.

3. Aggrieved by the judgment passed by the trial Court, the plaintiffs preferred an appeal before the First Appellate Court. The First Appellate Court chose to dismiss the appeal preferred by the plaintiffs.

4. The short substantial question of law that arises for determination in the

Second Appeal is whether the appellants/plaintiffs are entitled to claim interest on the amount awarded as compensation, despite no pleading found in the plaint as regards the interest on the amount to be awarded.

5. The learned counsel appearing for the appellants/plaintiffs would submit that the Courts below should not have deducted a sum of Rs. 30,000/-, the amount already awarded as compensation by this Court in the Criminal Appeal preferred by the respondents from a sum of Rs. 67,200/- determined as total compensation by the Courts below.

6. It is her further submission that despite there being no pleading as regards the claim for interest, the Courts below should have awarded interest on the amount awarded as compensation.

7. This Court is not inclined to reopen the quantum of compensation arrived at by the Courts below concurrently, considering the earning capacity and the longevity of the deceased on the basis of materials on record.

8. The compensation of Rs. 30,000/- was directed to be paid by this Court in the criminal appeal preferred by the respondents as against the judgment of conviction passed in the case of murder of Dalbir Singh. The judgment of this Court passed in the criminal appeal does not stipulate that the compensation of Rs. 30,000/- was awarded in the criminal case apart from the compensation that may be awarded in any other proceedings as against the respondents herein. The said amount was awarded only in connection with the murder of Dalbir Singh. The appellants have sought compensation only in connection with the loss of income on account of murder of Dalbir Singh. Therefore, in my view, the compensation already paid by the respondents as per the directions of this Court in the Criminal Appeal has been rightly deducted from the quantum of compensation arrived at by the Courts below. Coming to the claim for interest for the first time made before this Court, I find that there is virtually no pleading as regards the claim for interest on the amount to be awarded by the Court. In fact the plaintiffs having arrived at a loss of Rs. 4,86,000/- on account of the murder of Dalbir Singh claimed only Rs. 1 lac as lump-sum amount in the suit. When lump-sum amount has been sought for and no interest has been prayed for by the plaintiffs, the question of granting interest does not arise. The substantial question of law formulated by this Court is answered accordingly. Consequently, the appeal stands dismissed.