

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****237****RSA-2926-2019 (O&M)****Date of decision: 15.09.2025****Jagwinder Singh****...Appellant(s)****Vs.****Harminder Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sukhmeet Singh, Advocate
for the appellant.

Mr. Arvind Kashyap, Advocate
for respondents No.1 to 3.

NIDHI GUPTA, J.**CM-8009-C-2019**

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 203 days in filing the accompanying appeal.

2. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant the same is allowed and delay of 203 days in filing the appeal is condoned.

RSA-2926-2019 (O&M)

Present second appeal has ben filed by the defendant against the concurrent judgments and decrees of the learned Courts below; whereby the suit for damages to the tune of Rs.10 lakhs filed by the plaintiffs/respondents herein, has been partly decreed by both the Courts below and the plaintiffs have been held entitled to Rs.3,29,000/- as damages alongwith interest.



2. The brief facts of the case are that the plaintiffs are parents and minor brother of the deceased Jhujhar Singh. Defendant was convicted for murder of Jhujhar Singh for the offences punishable under Sections 302, 307 IPC and Section 27 of the Arms Act in the FIR No. 18 dated 05.04.2004 registered under Sections 302, 307 IPC and Sections 25/54/59 of Arms Act registered at Police Station Amloh (Ex.P4). Accordingly, plaintiff had filed the instant suit, seeking damages from the defendant as above. Suit was decreed vide judgment and decree dated 17.08.2010 passed by Civil Judge (Junior Division), Amloh. The Appeal filed by the appellant was dismissed by the learned Additional District Judge, Fatehgard Sahib vide judgment and decree dated 21.07.2018. Hence, present Second Appeal by the appellant.

3. In para 14 of the judgment dated 17.08.2010 passed by the Civil Judge (JD), Amloh, it is found that prosecution had successfully proved that the appellant had fired with his gun on Jhujhar Singh due to which he died. In cross-examination, the appellant/defendant has admitted his conviction.

4. Learned Courts below had, accordingly, held the defendant liable to pay damages to the plaintiffs. In holding as above, the learned Courts below kept in view the fact that at the time of death, deceased Jhujhar Singh was employed as a mechanic in the workshop and was getting Rs.3,000/-p.m. as salary, as evident from salary certificate Ex.P2, which was proved on record by PW2 Harwinder Singh. 50% was deducted by the learned trial Court towards personal and living expenses; thereby



calculating annual income to be Rs.18,000/- (Rs.1500 x 12). As per Matriculation Certificate 'Mark B' wherein his date of birth is mentioned as 20.08.1985, age of the deceased was 18 years 8 months. Accordingly, learned Tribunal had applied multiplier of 18 and calculated annual contribution of the deceased to the family, to be Rs.3,24,000/- (18000 x 18). A further sum of Rs.5,000/- was awarded towards funeral expenses; thereby awarding damages for a total amount of Rs.3,29,000/- to the respondents. The said amount was awarded alongwith interest @ 6% p.a.

5. The only argument raised on behalf of the appellant/defendant is that the appellant already stands convicted for the offences. Thus, the appellant had already suffered criminal liability; and, therefore, damages could not have been imposed upon the appellant. It is accordingly prayed that the present second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

6. *Per contra*, learned counsel for the plaintiff/respondents opposes submissions of the appellant/defendant and submits that impugned judgments and decrees suffer from no error. Admittedly, appellant has been convicted and, therefore, the respondents being the parents and minor brother of the deceased Jhujar Singh are entitled to damages. Hence, dismissal of the present second Appeal is prayed for.

7. Heard.

8. The sole argument raised on behalf of the appellant is liable to be rejected in view of the judgment of Hon'ble Supreme Court in **Suba**



Singh and another v. Davinder Kaur and another (SC) : Law Finder Doc Id

268161; wherein it is held that:

“Accused committing murder - Accused liable under Indian Penal Code and also liable to pay compensation under Fatal Motor Accidents Act - Rule of double jeopardy not applicable.

A. Fatal Accidents Act, 1855 - Criminal Procedure Code, Sections 357 and 300 - Constitution of India, Article 20 - Indian Penal Code, Section 302 - Double jeopardy - Accused committed murder and sentenced to life imprisonment - Civil suit claiming damages also filed under Fatal Accidents Act - Accused directed to pay damages of Rs. 2.30 lakhs - Rule of double jeopardy will not apply.

Double Jeopardy - Accused committing murder - Convicted under Sections 302, 307 and 34 Indian Penal Code and sentenced to life imprisonment - Wife and minor daughter of deceased filed a civil suit claiming damages - Deceased was aged 25 years and was motor vehicle driver and his income from all sources was Rs. 16,000/- p.m. - Sessions Judge awarded compensation of Rs. 2.32 lakhs to widow and her minor daughter - Fatal Accident Act - Accused took the plea of double jeopardy and contended that accused were punished twice for same offence - Contention not tenable - Held :-

An action for civil damages is not prosecution and a decree of damages is not a punishment - The rule of double jeopardy, therefore, has no application to this case.

B. Fatal Accidents Act, 1855 - Indian Penal Code, Section 302 - Accused committing murder and sentenced to life imprisonment - Accused also liable to pay damages to dependants of deceased in a claim under Fatal Motor



Accidents Act - Supreme Court observed that Fatal Motor Accidents Act was enacted more than 1½ centuries old - Supreme Court asked the Govt. that old antiquated Act should be drastically amended or fresh legislation should be enacted which should, inter alia, contain appropriate provisions in regard to the connected matters - Supreme Court reiterated the observations made in the case Charan Lal Sahu v. Union of India, 1990(1) SCC 613 wherein such a suggestion was made.

10. The rule against double jeopardy is contained in sub-article (2) of Article 20 of the Constitution of India which mandates that "no person shall be prosecuted and punished for the same offence more than once". Now, it is elementary that an action for civil damages is not prosecution and a decree of damages is not a punishment. The rule of double jeopardy, therefore, has no application to this case."

9. Learned counsel for the appellant is unable to controvert or dispute the above said facts, findings, and legal position.

10. Hence, present Regular Second Appeal is hereby **dismissed**.

11. Pending applications, if any, stand disposed of.

15.09.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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