



In the High Court of Punjab and Haryana, at Chandigarh

1. Regular Second Appeal No. 1725 of 1993 (O&M)

Waryam Singh (Deceased) through his Legal Representatives and Others

... Appellant(s)

Versus

Bakhshish Singh and Others

... Respondent(s)

AND

2. Regular Second Appeal No. 1276 of 1993

Bakhshish Singh

... Appellant(s)

Versus

Waryam Singh (Deceased) through his Legal Representatives and Others

... Respondent(s)

DATE OF DECISION: 28.01.2025

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Nandan Jindal, Advocate
for the appellant No.1 (In RSA-1725-1993) and
for the respondent No.1 (In RSA-1276-1993).

Mr. Ramesh Sharma, Advocate
for Mr. Sukhjeet Singh Brar, Advocate
for the appellant (In RSA-1276-1993) and
for the respondents (In RSA-1725-1993).

Anil Kshetarpal, J.

1. These two cross regular second appeals are pending for the last 32 years. Originally, Bakhshish Singh filed a suit for recovery of ₹2,52,000/- against Waryam Singh, Harinder Singh alias Hari Singh, Basawa Singh,

Surinder Singh alias Bug and Pritpal Singh for causing injuries to him as well as his son on 11.03.1983. The suit was filed along with an application for permission to sue as an indigent person which was dismissed. Subsequently, the plaintiff deposited the court fee for claiming damages to the extent of ₹1,50,000/-. In a criminal case, all the defendants were convicted. In the civil suit, the Trial Court held that the plaintiff is entitled to ₹60,000/- as compensation.

2. Aggrieved against the Trial Court's judgment, both the parties filed the first appeals, respectively. The plaintiff filed an appeal for enhancement of the compensation, whereas in their appeal, the defendants claimed that the Trial Court's judgment is wrong. In the meantime, the appeal filed by the defendants against their conviction was allowed on 13.03.1987. It was held that the defendants were exercising their right to private defence to their property.

3. During the pendency of their first appeal, the defendants filed an application to amend the written statement which was dismissed on the ground that the defendants have pleaded a new defence which is contrary to the original defence because they denied causing any injuries to the plaintiff and his son. Thereafter, the First Appellate Court reduced the amount of compensation to ₹40,000/-.

4. As already noticed, both the appeals were admitted and have come up for hearing after 42 years.

5. The learned counsel representing the defendants submits that the compensation amount of ₹40,000/- has already been deposited and withdrawn by the plaintiff.

6. On the other hand, the learned counsel representing the plaintiff submits that the amount of ₹40,000/- needs to be scaled up as the defendants had caused injuries to the plaintiff as well as his son.

7. On the other hand, the learned counsel representing the defendants claims that the First Appellate Court has erred in dismissing their application for amendment of the written statement.

8. After having heard the learned counsel representing the parties, this Court is of the considered view that the matter is required to be closed particularly when ₹40,000/- has already been paid and a period of 42 years has passed. If the defendants' application is allowed to amend the plaint, the Court will have to re-open the entire case.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned judgment passed by the First Appellate Court. Hence, both the appeals are dismissed.

8. The miscellaneous application(s) pending, if any, in both the appeals shall stand disposed of.

**(Anil Kshetarpal)
Judge**

January 28, 2025
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No