

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. HCA 306 / 2015

Date	Order with signature of Judge
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- 1) For orders of CMA 4678/2015 (Exemption)
- 2) For hearing of main case.

19.11.2015

Mr. Abdul Abid Advocate / appellant in person.

Through instant appeal, the appellant has impugned order dated 27.08.2015 passed by a learned Single Judge of this Court in Suit No. 597 of 2008, whereby, the application filed by the appellant under Order 14 Rule 5 CPC, for framing of additional issues has been dismissed.

Appellant present in person submits that the trial court had framed only one issue i.e. *whether on 15.5.2007 and 12.9.2007 defendant No.2 ignored / avoided / neglected to provide treatment to his patient (deceased)?*, whereas, this issue does not cover the entire case / controversy raised by the appellant in the Suit, therefore, the learned Single Judge ought to have granted the application in question, whereby the Court was requested to frame 5 additional issues.

We have heard the appellant and have also perused the record including the application filed for framing the additional issues. On perusal of the application in question, it appears that additional issues raised by the appellant, in fact are not issues which could be decided by the Court, but instead are events/acts on the basis of which the case of alleged negligence, on the part of defendant No.2, is being made out by the appellant. The issue already settled as above, in fact covers the entire case of the appellant that whether or not the deceased died due to negligence or otherwise, as the Suit has been filed for recovery of damages on the basis of negligence and that is all. The appellant is at liberty to adduce evidence in respect of the events / acts, which ultimately would decide the fate of the Suit of the appellant.

In the circumstances, we do not feel it appropriate that any additional issues are required to be framed in the instant matter. Accordingly instant appeal being misconceived is hereby dismissed in limine along with listed application.

JUDGE

JUDGE