

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Hearing & Decision: 17th November, 2011

+ **MAC APP. 46/2008**

BALJEET SINGH DAHIYA Appellant
Through Mr. Prasoon Kumar, Advocate with
Mr. Deepak Chander Pal, Advocate
versus

RAM CHANDER & ORS. Respondent
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

1. Whether reporters of local papers may be allowed to see the Order?
2. To be referred to the Reporter or not?
3. Whether the Order should be reported in the Digest?

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. Appellant Baljeet Singh Dahiya has challenged the award dated 10th October, 2007 passed by the Motor Accident Claim Tribunal whereby the tribunal directed the compensation amount of ₹ 2,54,017/- to be recoverable from Sh. Praveen Kumar i.e. respondent No.4 (being the driver), Ram Kumar (respondent No.3) being the registered owner and the appellant Baljeet Singh Dahiya being the *Superdar* of the offending

vehicle i.e. two wheeler scooter No. DL-8SJ-8068.

2. The grievance of the appellant is that he had no connection whatsoever with the scooter in question nor he took the scooter on *superdari* and, therefore, he could not have been made liable to pay the compensation along with the driver and the registered owner of the scooter. The learned counsel for the appellant has taken me through the written statement filed before the tribunal. In the written statement, the appellant took the plea that the Respondent No.2 had nothing to do with the case as he was not the registered owner of the vehicle bearing No.(scooter) DL-8SJ-8068. He was totally unaware of the aforesaid vehicle as well as the accident. Respondents No.1 and 2 (herein) thereafter made verification as to the registered owner of the scooter and moved an application dated 18.01.2005 for impleadment of Ram Kumar as respondent No.3 as the registered owner of the vehicle. Said Ram Kumar was served. He, however, preferred not to contest the claim petition and was ordered to be proceeded ex parte by an order dated 31.08.2007 passed by the Tribunal. Thus, there was no counter to the averments made by the Appellant. By an order dated 08.03.2010, a status report from the SHO Police Station Sultan Puri was sought. In the status report, it was stated that the scooter No.DL-8SJ-8068 was released on *Superdari* to Shri Ram Kumar, resident of village and P.O. Bawana. Along with the status report extract of the *Malkhana* Register was also filed by the SHO to show that the

scooter was released to said Shri Ram Kumar on 31.01.2003. Respondent No.3 Ram Kumar has failed to contest the petition as well as the appeal in spite of notice. In view of the documentary evidence available on record, the observations of the Tribunal that the Appellant was liable to pay the compensation jointly and severally with Respondents No. 1 and 3 are liable to be set aside. Otherwise also, it was nowhere pleaded before the Tribunal that the Appellant was the rightful owner of the vehicle. Merely because a person is a *Superdar* of a vehicle would not *ipso facto* make him liable to pay the compensation, though it is not established from record that the Appellant had taken the scooter No.DL-8SJ- 8068 on *superdari*.

3. In the circumstances the Appeal is allowed and the award is modified to the extent that Respondents No.1 and 3 being the driver and owner of two-wheeler scooter No. DL-8SJ-8068 are liable to pay the compensation.
4. The appeal is disposed of in above terms. No costs.
5. Copy of the order may be sent to the trial court for compliance.

(G.P. MITTAL)
JUDGE

NOVEMBER 17, 2011
pst