

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.4252 of 2012 (O&M)
Date of Decision: 14.05.2015

M/s A.R. Therosets Pvt. Ltd.

..... APPELLANT

VERSUS

Gurpreet Singh and others

..... RESPONDENTS

PRESENT: - Mr. A.S. Cheema, Advocate
for the appellant.

Mr. Ashok Goel, Advocate
for respondent No.2.

Mr. Sukhdev Singh, Advocate for
Mr. L.S. Sidhu, Advocate
for respondents No.5 and 6.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 1) Whether Reporters of the local papers may
be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in
the Digest?

SHEKHER DHAWAN, J.

The present appeal is against award dated

01.02.2012 passed by the Motor Accident Claims Tribunal, Mansa whereby the Tribunal awarded compensation to the tune of ₹6 lacs.

Mr. A.S. Cheema, learned counsel for the appellant took the plea that they had already sold the vehicle i.e. Van bearing registration No.UP-7-8T/9228 to Munish Avasthi much prior to the date of accident. Mr. Rajesh Tiwari was witness before the Tribunal, who had tendered his affidavit Ex.RW-1/A. The appellant also tendered into evidence Receipts Ex.R-1 and Ex.R-2 vide which the delivery of vehicle was given to Munish Avasthi and Munish Avasthi admitted the said fact while appearing in the witness box. However, the Tribunal fell in error that the registered owner is liable to pay the compensation though the subsequent purchaser admitted the fact regarding ownership. The liability to pay the amount of compensation was of Munish Avasthi and not the appellant and the appeal be accepted and the order be modified.

Learned counsel for the respondents took the plea that the liability to pay the amount of compensation was of the owner. Learned counsel for respondents No.2,5 and 6 took the plea that the liability to pay the compensation is of the owner.

Having considered the rival contentions raised by learned counsel for the parties, this Court is of the view that the liability to pay the amount of compensation is primarily of the registered owner, as per provisions of Section 149 of the Motor Vehicles Act, 1988. However, Hon'ble Supreme Court in case of **Vasantha Vishwanathan and others Vs. V.K. Elayalwara and others** 2001 (8) SCC 133, held as under:

“Section 31 of the Motor Vehicles Act, 1939 lays down that where the ownership of any motor vehicle registered under the Motor Vehicles Act is transferred, the transferor and transferee both are required to report the fact of transfer to the registering authority so that particulars of transfer of ownership may be entered in the certificate. The transfer is not effected under Section 31 of the Motor Vehicles Act, 1939, but the same simply prescribes procedure for entering the factum of transfer in the registration certificate, which is an act posterior to the transfer. The transfer of vehicles in question would be governed by the provisions of Section 19 of the Sale of Goods Act according to which property in the vehicle would pass to Defendant 1 at such time as the parties to the contract intend it to be transferred. Thus the passing of property in the goods would

be dependent upon the intention of the parties, as evidenced from the contract.”

The claim petition was filed against Gurpreet Singh as driver of offending Van and Punjab Public School and Ashok Kumar Jindal as owners of the vehicle. However, appellant M/s A.R. Therosets Pvt. Ltd. was arrayed as registered owner of the vehicle. The claimant also arrayed Munish Avasthi as owner of the vehicle. Respondents No.2 and 3, who were arrayed as owners of the vehicle filed written statement before the Tribunal. Accordingly, Munish Avasthi was also arrayed as owner of the vehicle but he had not filed any written statement.

The Tribunal has recorded the observation on the basis of evidence available on file that the appellant is the registered owner. Munish Avasthi had taken the plea that he wanted to implead Pritpal Singh C/o M/s Pritpal Motors, Samrala Chowk, Kabari Market, Ludhiana as the respondent because he had sold the said vehicle to Pritpal Singh. The said application was declined as Munish Avasthi failed to attach any documents in support of that showing that the vehicle was purchased by Pritpal Singh at any point of time. The Tribunal after taking into consideration the definition of owner as laid down in Section 2 (19) of the Motor Vehicle Act, 1939 and as per law laid down by Hon'ble

Supreme Court in case of **Vasantha Vishwanathan and others Vs. V.K. Elayalwara and others (supra)** recorded the finding that A.R. Therosets is the owner of the vehicle, who is otherwise the registered owner of the vehicle. The Tribunal had rightly observed that respondent No.4 failed to produce any document just to establish that he had actually sold the vehicle to Munish Avasthi and, as such, the vehicle remained registered in the name of appellant-M/s A.R. Therosets Pvt. Ltd.

The Tribunal has also rightly relied upon judgment from Hon'ble Supreme Court in case of **T.V. Jose (Dr.) V. Chacko P.M.** (2001) 8 SCC 748. As the appellant was the registered owner and the present vehicle had changed different hands during the intervening period but they have not been impleaded as such so as to establish that the ownership of the Matardor has been transferred and, as such, the present appellant held liable to satisfy the awarded amount of compensation and also held that appellant being registered owner of the vehicle was liable to pay the amount of compensation along with liability of respondent No.1 Gurpreet Singh as driver of the vehicle.

The present appeal is without any merit and
the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 14, 2015
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