

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH***

F.A.O No. 1375 of 2013

Date of decision:- 14.12.2015

Baljinder Singh

...Appellant

Versus

New India Assurance Co. Ltd. & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.S. Rangpuri, Advocate
for the appellant.

Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for respondent No. 1.

Mr K.B.S Mann, Advocate
for respondent No. 3 to 5.

1. To be referred to the Reporters or not? Yes

RITU BAHRI J.

C.M. No. 7967-CII of 2013

For the reasons mentioned in the application, delay of 895
days in filing of the present appeal is condoned.

The application stands disposed of accordingly.

FAO No. 1375 of 2013

The present appeal has been preferred by the owner-
appellant (for short 'the appellant') against the award dated
04.08.2010 passed by the learned Motor Accident Claims Tribunal,
Muktsar (for short, 'the Tribunal') granting the recovery rights to the

Insurance Company against the present appellant.

The facts in brief are that on 24.07.2006 Gurmail Singh was proceeding on his bicycle to village Goneana from Muktsar and when he reached near cremation ground Goneana, Muktsar, a white coloured esteem car bearing registration No. DL-2CE-2711 came at a fast speed and struck against Gurmail Singh, who fell down and sustained injuries. Some persons took him to the Civil hospital, Muktsar where he sustained to his injuries on 05.10.2006.

The learned Tribunal after going through the evidence led by the parties, awarded the compensation as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3000/- per month
(ii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.3000-Rs.750=Rs.2250/- per month rounded off to Rs.2200/- per month
(iii)	Compensation after multiplier of 14 is applied	Rs.2200X 12 X 14= Rs.3,69,600/- rounded off to Rs.3,70,000/-
(iv)	Medical bills including transportation and funeral charges	Rs.1,68,000/-
(v)	Total Compensation awarded	Rs.5,38,000/-

However, the learned Tribunal gave liberty to the Insurance Company to pay the compensation and thereafter can recovery from respondent No. 2, as respondent No. 1 was not holding the valid driving licence at the time of accident. The learned tribunal had relied upon a judgment of this Court in a case of **Yog Raj @ Jog**

Raj vs. Bhajan Kaur 2010(1) RCR (Civil) 202

Learned counsel for the appellant at the very outset contended that the learned Tribunal has wrongly held that the present appellant being the registered owner of the offending vehicle is liable to pay the compensation as there was evidence on record that the appellant had sold the vehicle to respondent No. 2 prior to the date of accident and thus, driver should be held liable to pay the compensation and recovery rights to the Insurance Company should have been granted against the driver, who had purchased the vehicle from the appellant.

Reference has been made to the superdari application i.e Ex RW1/B and order of Superdari Ex RW1/D and copy of F.I.R RW1/4 and charge sheet Ex RW1/5 which shows that DharamDeep Singh alias Dharamjeet Singh @ Sony had purchased the offending vehicle from the appellant on 22.05.2006 prior to the date of the accident.

To give force to its contention, reference has been made to a judgment passed by this Court in a case of Ashutosh Batra vs. Annu and others where plea of registered owner that he had sold the vehicle to some one else prior tot he date of accident, it was held that in a claim emanating from third party, there will be nothing wrong about a Tribunal passing an order against a registered owner and also provide a recovery right against the subsequent purchaser who is

arrayed as a party. The relevant part of the order reads as under:-

*“However, if a claim emanated from a third party, there will be nothing wrong about a Tribunal passing an order against a registered owner and also provide a right of recovery against the subsequent purchaser who is arrayed as a party. The duty to satisfy a claim by registered owner was laid down authoritatively by the Hon'ble Supreme Court in **Dr. T.V. Jose Vs. Chacko 2001(8) SCC 748** and this decision was also cited by the Hon'ble Supreme Court in **Pushpa @ Leela and others Vs. Shakuntala and others 2011(2) SCC 240**. The subsequent purchaser-5th respondent is already a party and the appellant will not be driven to a separate suit for securing a right of recovery of the amount from the subsequent purchaser. It is clarified here that the recovery rights provided by the award shall be enforced in execution after satisfying the claim of the third party.”*

Applying the ratio of the above mentioned judgment to the facts of the present case, the award is modified to the extent that the Insurance Company shall make the payment of entire compensation to the claimants and thereafter, can recover it from the driver i.e subsequent purchaser i.e DharamDeep Singh alias Dharamjeet Singh @ Sony, who had purchased the offending vehicle

from the appellant on 22.05.2006 and was driving the offending vehicle without valid driving licence.

The appeal stands partly allowed to the above extent.

14.12.2015

G Arora

(***RITU BAHRI***)
JUDGE