

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

**FAO No.1791 of 2015 (O&M)
Date of decision: 13.03.2015**

Tarsem Singh and another

..... Appellants

versus

Rajvinder Kaur and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Rajeshwar Singh Thakur, Advocate for the appellants

- 1. Whether Reporters of Local Newspapers 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?*

Kuldeep Singh, J.

Appellants, who are driver and owner respectively of the offending vehicle have filed this appeal against the award dated 10.11.2014, passed by the Motor Accident Claims Tribunal, Jalandhar (for brevity, 'the Tribunal'), vide which, the award for Rs.14,01,864/- has been passed in favour of the claimants – respondents herein with interest @ 6% per annum from the date of application till realization. Respondent Nos.1 and 2 (appellants herein) were made jointly and severally liable to pay the amount.

The brief facts relevant for the purpose of disposal of the appeal are that Iqbal Singh, deceased was working in Guru Nanak Khalsa College for Women, Sham Chaurasi, District Hoshiarpur and was getting salary of Rs.10,600/- per month. It is stated that he was earning another Rs.10,000/- per month from the agriculture. On 22.2.2014, Iqbal Singh deceased was going from Kathar to

Hoshiarpur along with his real brother Ravinder Singh, cousin Jaspreet Singh and maternal uncle Harwinder Singh on car bearing registration No.PB-07—W-0990 make Tata Indigo. The car was being driven by Jaspreet Singh and Ravinder Singh was sitting on the front seat. Harwinder Singh and Iqbal Singh deceased were sitting on the rear seat. At about 9.30 a.m.,when they reached near New Life Dhaba, Mandiala, District Hoshiarpur, the offending vehicle Tofan Trax bearing registration No.PB-05-W-9923, driven by Tarsem Singh – appellant No.1, coming from Jalandhar at a high speed in a zigzag manner, without blowing horn hit the car from the back side. As a result of the accident, all the occupants of the car suffered injuries. Iqbal Singh died on way to the hospital. The case was registered on the complaint of Jaspreet Singh.

The appellants in the written statement, took the plea that appellant No.2 was the owner of the offending vehicle. He sold the same to appellant No.1 and handed over the possession to appellant No.1, regarding which, an affidavit was executed by appellant No.1. Therefore, appellant No.1 is not responsible for making the payment. A false case has been registered against appellant No.1.

I have heard learned counsel for the appellants and have carefully gone through the file.

Learned counsel for the appellants has argued that in this case, appellant No.2, while appearing as RW1, has stated that said Tofan Trax was purchased through financier and was further sold to Sukhwinder Singh son of Gian Singh, resident of Ward No.13, Amritsar Road, Makhu, District Ferozepur on 8.7.2013. Insurance

cover and registration certificate and other documents were handed over to Sukhwinder Singh as per agreement dated 8.7.2013. It was further stated that as per agreement dated 8.7.2013, purchaser was liable for the future consequences regarding the vehicle. A copy of the agreement (Ex.R1) was produced on file.

I am of the view that the said plea is beyond the pleadings. In the written reply, appellant No.2 has taken the plea that he has sold the vehicle to appellant No.1. Name of Sukhwinder Singh did not figure in the pleadings. A new plea was sought to be raised during evidence and agreement dated 8.7.2013 was sought to be produced to say that the vehicle was sold to Sukhwinder Singh. This evidence being beyond the pleadings, was rightly discarded by the Tribunal. Moreover, no sale can be made through agreement. There is nothing on file to show that any document of transfer of the vehicle, as required under the Motor Vehicle Act, 1988, was executed.

Learned counsel for the appellants has further argued that in this case, accident is not proved. However, a perusal of impugned judgment shows that in this case, the complainant had appeared in witness box and supported the prosecution case. The statement of complainant Jaspreet Singh is sufficient to prove the accident. It is the quality and not quantity which is material.

It being so, I do not find any merit in the present appeal. The same is accordingly dismissed.

13.03.2015**gk****(Kuldip Singh)
Judge**