

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

**FAO No.3334 of 2015 (O&M)
Date of Decision: May 13, 2015**

M/s Patran Auto Enterprises Appellant

vs.

Smt. Amarjit Kaur and others Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Alok Mittal, Advocate for the appellant.

- 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?*

Kuldip Singh J.(Oral)

M/s Patran Auto Enterprises has filed the present appeal against the Award dated 09.03.2015 passed by the Motor Accident Claims Tribunal, Patiala (in short 'the Tribunal') vide which the compensation of ₹7,31,000/- (rupees seven lac thirty one thousand only) was awarded to the claimants against the present appellant as well as Gursewak Singh, Driver (respondent No.5 herein). The liability was joint and several.

The brief facts of the case are that on 03.01.2011 at about 5.30 p.m., deceased Kehar Singh was going back to his village from Patran on his bicycle after attending his duty. When he reached on the bridge of Minor Canal near the village Burar, Police Station Ghagga, he took a turn towards his village Atalan and entered on kacha berm of the road. In the meanwhile, a brand new motorcycle

make 'Bajaj Discover' without registration number, being driven by Gursewak Singh-respondent came from the opposite direction in a rash and negligent manner and hit the bicycle of Kehar Singh. As a result of the accident, Kehar Singh died at the spot.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

Learned counsel for the appellant has argued that in this case, the appellant is an authorized dealer and that he had already sold the vehicle in question to Gursewak Singh-driver on 18.12.2010. It has been further argued in this regard the challan dated 18.12.2010 (Ex.R-1) was produced before the Tribunal. However, the same was discussed and discarded by the Tribunal.

A perusal of the Award shows that the original bill book from which the challan was prepared, was not produced. However, the claimants produced the original invoice (Ex.PY) regarding sale of the motorcycle as well as temporary registration number of the motorcycle (Ex.PX), which bears date 06.01.2011, which shows that the vehicle was sold on 06.01.2011 i.e. after the accident which occurred on 03.01.2011.

The plea of learned counsel for the appellant is that it is general practice that in order to show the higher model of vehicle, the documents of the vehicle purchased in December are prepared in January.

The sale is complete only when the invoice is issued and the vehicle is delivered. It is not disputed that at the time of delivery in addition to the invoice, delivery letter, temporary registration number and insurance were also issued. All these documents were admitted by the appellant to be issued on 06.01.2011. Therefore, the mere challan of the vehicle in question of the earlier date can not show that it was sold on 18.12.2010. Thus, there is no fault in the findings recorded by the Tribunal holding the present appellant to be liable with the driver. Now, *interse* it is between the present appellant and the driver since their liability was joint and several. Therefore, I do not find any merit in the present appeal and the same is accordingly dismissed.

However, it shall always be open to the the appellant to institute separate proceedings to recover the amount of compensation from Gursewak Singh-driver, if permissible under the law.

May 13, 2015
sarita

(KULDIP SINGH)
JUDGE