

209.

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

FAO No.5730 of 2012 (O&M)

Date of decision:29.02.2016

Kishan Kumar Sardana

... Appellant

versus

Chanderbhan and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sandeep Kotla, Advocate,
for the appellant.

Mr. Sunil Saharan, Advocate,
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The registered owner is in appeal before this court complaining that he could not have been made liable since he had transferred the vehicle and only the subsequent owner must have been made liable. Admittedly, according to him, the vehicle had been sold to one Mahipal. Mahipal, in turn, had sold it to one Anoop Singh, who, in turn, sold it to Mahender. Mahender had engaged the driver-Rajesh, who had caused the accident.

2. Admittedly, the appellant was registered owner of the vehicle. He offered no proof of transfer of vehicle except to rely on copy of an affidavit. The affidavit of living person cannot be brought to evidence unless there had been an admission of the transferee of such purchase. If Mahender himself was not made a party, the liability cast on the registered owner was perfectly justified.

3. In *Purnya Kala Devi Versus State of Assam and another-2014(14) SCC 142*, the court was holding that even a registered owner would not be made liable if the vehicle was proved to be in the possession of yet another person under an agreement of sale or under hire-purchase. This decision recognizes the fact that the transfer of ownership of a vehicle operates by delivery under Section 19 of the Sales of Goods Act and the registration is but an evidence of ownership and not at all times the only source of assessing the ownership. If the registered owner in this case was contending that yet another person was the owner and the driver was not really his driver but somebody else was, the burden of proof was on the registered owner to prove such a contention. He had not discharged the onus and the court below was justified in granting the award and I would find no reason to interfere with the same and affirm the same.

4. The appellant may satisfy the award and will have the liberty to sue his own purchaser or the ultimate purchaser who, according to him, was responsible for the accident. Any finding rendered in the absence of Mahender or any earlier purchaser will be meaningless when they were themselves not parties. If any separate suit were to be filed, the date of this judgment shall be taken as the starting point for the final determination of liability against the appellant and he will have a right of recovery of the amount to which he was damnified and will grant appropriate reliefs in accordance with law.

5. The appeal is dismissed but with the above observations.

(K.KANNAN)
JUDGE

29.02.2016
sanjeev