

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

F.A.O No.57 of 2016 (O&M)

Date of Decision : 12.02.2016

Rajinder Singh

..... Appellant

Versus

Baljinder Singh @ Bhola and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. S.S. Rangi, Advocate
& Mr. Sahil Arora, Advocate
for the appellant.

Mr. P.K.S. Phoolka, Advocate
for respondent No.1.

Mr. B.S. Jatana, Advocate
for the respondent No.2.

Mr. A.S. Cheema, Advocate
for respondents No.3 and 4.

1. Whether Reporters of 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?

AJAY TEWARI, J. (Oral)

This appeal has been filed by the registered owner against the
award dated 13.08.2015 passed by the Tribunal.

Brief facts of the case are that on 21.08.2013, Gagandeep Singh

since deceased alongwith Sandeep Singh @ Babbi were going on a motorcycle from Village Sardulgarh to Village Jattana Kalan. The said motorcycle was being driven by Gangandeeep Singh, since deceased and Sandeep Singh @ Babbi was its pillion rider. At about 8 PM, when Gangandeeep Singh since deceased and Sandeep Singh @ Babbi had reached near Surdulewala Barrier, a Sumo Spacio Jeep bearing registration No.PB-13-J-7251 came at fast speed from opposite side being driven by respondent No.2 Gurdeep Singh, which rammed into the motorcycle of Gangandeeep Singh and resultantly the above said motorcyclists fell on the road. The driver of the motorcycle Gangandeeep Singh died on the spot whereas Sandeep Singh @ Babbi suffered multiple grievous injuries on his body. The Tribunal held that the appellant and respondent No.2 are jointly and severally liable to pay the compensation amount and interest accrued thereon to the claimants.

Learned counsel for the appellant has argued that the appellant had sold the offending vehicle to the respondent No.1-Baljinder Singh @ Bhola and the respondent No.1 had accepted this fact and merely because the registration certificate had not been transferred, would not render him liable. In this connection, he has relied upon the following judgments:-

- i) HDFC Bank Ltd. vs. Kumari Reshma and ors., 2014(6) Recent Apex Judgments (R.A.J.) 583;
- ii) Purnya Kala Devi vs. State of Assam and another, (2014) 14 Supreme Court Cases 142;
- iii) Ravi Kumar vs. Jitender Lathar and others, 2014(3) PLR 275.

Learned counsel for the respondents are not in a position to deny the proposition of law being canvassed by the learned counsel for the

appellant. However, learned counsel for the respondent No.1 has argued that after purchasing the vehicle from the appellant he had further sold it to the respondent No.2 and therefore if the appellant has to be absolved of his share the respondent No.2 should be held liable.

Learned counsel for the respondent No.2 however states that the respondent No.2 has denied purchasing the offending vehicle. In this connection, learned counsel for respondent No.1 has relied upon an affidavit executed by the appellant in favour of respondent No.2 to canvass that in this affidavit the appellant has stated that he had sold the vehicle to respondent No.2-Gurdeep Singh and therefore this clearly proves that Gurdeep Singh was in control of the offending vehicle at the time of the accident in his own right.

Learned counsel for the respondent No.2 states that first this unilateral document can not bind his client and secondly even the original of that affidavit was not placed on record and only a photocopy was placed on record and therefore that document can in no way go to prove that the respondent No.1 had transferred the vehicle to the respondent No.2.

I am in agreement with the arguments of the learned counsel for respondent No.2. Any unilateral document executed by one party can never prove the passing of title unless there is some acknowledgment or receipt of the same by the second party.

Consequently, even while allowing the appeal it has to be held that instead of the appellant it would be only the respondent No.1, who was jointly and severally liable, to pay the compensation amount.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 12, 2016
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(AJAY TEWARI)
JUDGE