

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 9.8.2017

FAO No. 779 of 2003

Raman Kumar

---Appellant

versus

Narvail Singh and others

---Respondents

FAO No. 3376 of 2003

Raman Kumar

---Appellant

versus

Balwan Singh and others

---Respondents

FAO No. 3377 of 2003

Raman Kumar

---Appellant

versus

Premo Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vivek Suri, Advocate
for the appellant(s)**

None for the respondents

Rekha Mittal, J.

This order will dispose of FAO Nos. 779, 3376 and 3377 of 2003 as identical questions of law and facts are involved for adjudication.

A brief backdrop of the case is that Narvail Singh, Balwant Singh and Smt. Premo Devi sustained injuries due to rash and

negligent driving of Cello Car No. UP-15-E-2873 driven by Baljeet Singh and owned by M/s Swaran Bhumi Forest India Limited.

The sole submission made by counsel for the appellant is that Raman Kumar, appellant was impleaded as respondent No. 3 in the case being sapurdar of aforesaid car. It is argued that if the appellant has got the car released on sapurdari being one of the representative of M/s Swaran Bhumi Forest India Limited, registered owner of the vehicle, he is not liable to pay compensation. Further submitted that as the appellant was neither registered owner of the vehicle nor otherwise had any connection with ownership of the vehicle in question, there was no occasion for the Tribunal to hold him jointly and severally liable to pay compensation, therefore, findings of the Tribunal recorded in para 24 of the award holding the appellant liable to pay compensation cannot be allowed to sustain and liable to be set aside.

There is no representation on behalf of the respondents despite service.

I have heard counsel for the appellant, perused the paper book particularly the award dated 16.8.2002 whereby all the claim application were decided by a common award.

Perusal of head note of each of the claim petitions, reproduced in the award, would make it evident that the present appellant was impleaded as respondent No. 3 being sapurdar of Car No. UP-15-E-2873. No finding has been recorded by the Tribunal that the said car was transferred by M/s Swaran Bhumi Forest India Limited in favour of the present appellant even though M/s Swaran Bhumi Forest India Limited continued to be registered owner of the vehicle.

Section 168 of the Motor Vehicles Act, 1988 (in short “the Act”) provides for Award of the Claims Tribunal. A relevant extract therefrom, reads as under:-

“Award of the Claims Tribunal.—On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be: Provided that where such application makes a claim for compensation under section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X.

(2)The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(3)When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct.”

A perusal of the aforesaid extract makes it evident that the Tribunal can fasten liability to pay compensation upon the insurer or owner

or driver of the vehicle involved in the accident or by all or any of them as the case may be. As the appellant was neither the driver nor owner of the vehicle in question, findings recorded by the Tribunal fastening liability upon the appellant and holding him liable to pay compensation jointly and severally with the owner and driver of the vehicle cannot be allowed to sustain and liable to be set aside.

For the foregoing reasons, the appeals are allowed in the aforesaid terms.

(Rekha Mittal)
Judge

9.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No