

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.3968 of 2013 (O&M)

Date of Decision: 07.11.2017

Gurmukh Singh

.....Appellant

Vs.

Muktar Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present:-** Mr.Vivek Goel, Advocate, for the appellant.

Respondent No.1 ex parte vide order dated 22.01.2015.

Mr.Rajesh K.Sharma, Advocate, for respondent No2.

Mr.M.S.Yadav, Advocate, for  
Mr.S.K.Singla, Advocate, for respondents No.4 to 7.

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**RITU BAHRI, J. (ORAL)**

**CM No.16091-CII of 2013**

For the reasons stated in the application, delay of 38 days in filing the appeal is condoned.

Application stands disposed of.

**Main Case**

Present appeal has been preferred by the Gurmukh Singh-owner of the vehicle (for short 'the appellants'), against award dated 23.02.2013, passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Patiala (for short, 'the Tribunal') as to whether he is liable to make the payment of compensation keeping in view that he has already sold his vehicle to respondent No.3-Baljinder Singh on 18.11.2008 whereas the accident took place on 23.01.2009.

On 23.01.2009, the deceased Naresh Kumar was going from Banur side to Rajpura side by driving/loading Three Wheeler No.PB-11AS-8299 on the correct left hand side of the road at a moderate speed and at about 11:30 p.m. when he crossed Gagan Chowk from Banur side to Rajpur

side, in the meantime, a Cargo Canter bearing registration No.PB-29D-9443 came from Ambala side which was being driven by respondent No.1- Muktar Singh in a rash and negligent manner without blowing horn and at uncontrollable speed, went on the wrong side and hit the left side of the Three Wheeler. Thereafter respondent No.1 fled away from the spot. All the injured who were sitting in three wheeler were sent to AP Jain Civil Hospital, Rajpura by Amrik Singh. The deceased was referred to PGI, Chandigarh where he died on 24.01.2009 at about 4:00 am. An FIR No.14 dated 24.01.2009 under Sections 270/337/304-A of IPC was registered against Police Station city Rajpura by Amrik Singh.

On notice, reply was filed by the present appellant Gurmukh Singh taking the preliminary objections that he had already been sold the offending vehicle to respondent No.4 much prior to the date of accident and the vehicle had been got transferred by respondent No.4 in his name and he was the registered owner of the vehicle at the time of accident.

On the pleadings of the parties, following issues were framed:

- (1) Whether Naresh Kumar son of Jagdish Chand died in motor vehicular accident occurred on 23.01.2009 at about 11: 30 p.m in the area of Gagan Chowk, Rajpura due to rash and negligent driving of respondent No.1 while driving Cargo Canter No.PB-29D-9443? OPP
- (2) Whether the claimants are entitled to compensation, if so to what extent and from whom?OPP.
- (3) Whether the present claim petition is not maintainable? OPR.
- (4) Whether the claim petition is bad for non-joinder of necessary parties? OPR3.
- (5) Whether the driver of the Cargo Canter No.PB-29D-9443 was not holding valid and effective driving licence at the time of accident? OPR3
- (6) Relief.

After going through the evidence, the learned Tribunal has given finding in favour of complainant that the accident took place on account of rash and negligent driving of respondent No.1-Mukhtar Singh as

IPC was got registered on the statement of Amrik Singh PW-2.

The compensation has been assessed at Rs.4,18,000/- in favour of claimant. The insurance company has been absolved from the liability to pay compensation on the ground that cover note bearing No.475380 dated 15.04.2008 was valid upto 14.04.2009 and this cover note was found forged and fabricated.

After going through the evidence, the learned Tribunal had returned to the findings that the cover note for the period 03.04.2000 to 01.08.2012 in which no cover note bearing JRO/No.475380 dated 15.04.2008 had been issued by the office of Insurance Company and all the cover notes issued by LDH mark as the cover notes were printed by their Regional Office, Ludhiana. The official of the Insurance Company proved the copies of register Ex.139 to Ex.145 and since cover note has been issued by Mark-D, the insurance policy of the vehicle was held to be forged and fabricated documents and Insurance Company was absolved from the liability to make the payment of compensation.

In paragraph-20 of the Award, it has been further observed that Baljinder Singh had purchased the offending vehicle from Gurmukh Singh on 18.11.2008 and thereafter vehicle was transferred in his name. This vehicle was insured on 15.04.2008 and the present appellant was owner of the vehicle when the vehicle was insured and on account of the date of insurance policy issued on 15.04.2008, the present appellant was held liable to make the payment of compensation .

Learned counsel for the petitioner has referred to the deposition of PW3 Sukhwinder Singh, Additional Ahlmed, from the Court of PCS, JMIC, Rajpura, who deposed in his cross-examination that the offending vehicle was in the name of Baljinder Singh son of Jagrar Singh. In his cross-examination he further stated that as per report of DTO Moga, vehicle was registered in the name of Baljinder Singh on the date of accident.

In view of the above, the Award of the learned Tribunal is liable to be modified to the extent that compensation is to be paid by respondent No1-Muktar Singh being driver of the offending vehicle and respondent No.3-Baljinder Singh, being the owner of the offending vehicle at the time of accident, are jointly and severally liable to pay the

compensation amount. Remaining conditions of disbursal of amount shall

remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

**(RITU BAHRI)**  
**JUDGE**

**07.11.2017**

*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*