

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5264 of 2014(O&M)

Date of Decision:3.10.2017

Balkar Singh

---Appellant

vs.

Paramjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. B.D.Sharma, Advocate
for the appellant
Mr. A.S.Parmar, Advocate
for Mr. P.K.Kataria, Advocate
for respondent Nos. 1 to 4

Rekha Mittal, J.

The present appeal directs challenge against award dated 29.5.2013 passed by the Motor Accidents Claims Tribunal, Amritsar (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Jaswinder Kaur in a road side accident on 13.4.2011.

The sole submission made by counsel for the appellant is that as the offending vehicle stood sold by the appellant in favour of Waryam Singh respondent No. 8 prior to the accident as is evident from the documents Exs. R-1 to R-4 proved by Amritpal Singh, liability to pay compensation has been wrongly fastened upon the appellant being the registered owner of tractor bearing No. PJD 5919. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of

India **HDFC Bank Limited vs. Kumari Reshma and others 2015(3) SCC**
679.

Counsel representing respondent Nos. 1 to 4 has supported the award with the submission that as the appellant continued to be the registered owner of the offending vehicle even on 13.4.2011, he has rightly been held to be jointly and severally liable to pay compensation alongwith Gurbachan Singh, Dilbag Singh and waryam Singh, respondent Nos. 2, 3 and 5 before the Tribunal.

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The appellant was impleaded as one of the respondents being registered owner of the offending vehicle. Counsel has not disputed that on the date of occurrence i.e. 13.4.2011, offending vehicle stood registered in his name. The registered owner cannot be exonerated of his liability to pay compensation unless he is able to prove that he had sold the vehicle and has even complied with the requirements of Section 50 of the Motor Vehicles Act, 1988. In this context, reference can be made to judgment of Hon'ble the Supreme Court ***Pushpa alias Leela and others v. Shakuntala and others 2011 AIR (SC) 682***. A relevant extract from para 14 of the judgment is quoted hereunder:-

“The decision in T.V. Jose (Dr.) was rendered under the Motor Vehicles Act, 1939. But having regard to the provisions of Section 2(30) and Section 50 of the Act, as noted above, the ratio of the decision shall apply with equal force to the facts of the case arising under the 1988 Act. On the basis of these decisions, the inescapable conclusion is that Jitender Gupta, whose

name continued in the records of the registering authority as the owner of the truck was equally liable for payment of the compensation amount. Further, since an insurance policy in respect of the truck was taken out in his name he was indemnified and the claim will be shifted to the insurer, Oriental Insurance Company Ltd.”

The judgment relied upon by the appellant **HDFC Bank Limited's case (supra)** has got no bearing on the case at hand. In the referred authority, the owner entered into hypothecation agreement with the Bank and the Bank was registered owner along with borrower. The borrower was in control and possession of vehicle and he plied the vehicle without insuring it and met with an accident. In the circumstances, Hon'ble the Apex Court held that where a motor vehicle is the subject of hire-purchase agreement or an agreement of lease or an agreement of hypothecation, the person in possession of vehicle under that agreement is the owner. Counsel for the appellant is not in a position to draw similarity between facts of the case at hand and that of the referred authority to substantiate his contention that appellant can be exonerated of his liability to pay compensation. In view of the above, contention raised by counsel for the appellant is not meritorious and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

(Rekha Mittal)
Judge

3.10.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No