

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

FAO No. 927 of 2017 (O&M)

Date of Decision: 08.09.2017

KULWINDER SINGH

-APPELLANT

VS

PAYAL SOOD AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Robin Lohan, Advocate,
for the appellant.

Respondent No.1 in person.

Mr. Ajay Singla, Advocate,
for respondent No.3.

RAJ MOHAN SINGH, J. (ORAL)

This appeal has been preferred by Kulwinder Singh-owner of the offending vehicle. As per the claim petition filed under Section 166 of the Motor Vehicles Act by the claimant-respondent, the accident took place on 22.07.2014 in which the claimant-respondent No.1 received injuries. Under issue no.1, the Tribunal held that the respondent No.1 was driving the offending vehicle at the time of accident. The vehicle was not insured with the Insurance Company.

On the strength of observations made by the Hon'ble Apex Court in **HDFC Bank Limited vs Kumari Reshma and**

others, 2015(1) RCR (Civil) 1, learned counsel contended that the person who is in possession and control of the vehicle was held to be liable as against the registered owner.

The decision rendered by this Court in Ravi Kumar vs Jitender Lathar and others in FAO Nos.4090, 4690 and 3516 of 2007 decided on 12.03.2014 was also relied in the aforesaid context to held that the person in possession of the vehicle at the time of accident was liable to answer the claim on the analogy that the subsequent purchaser being party to the claim petition is liable irrespective of the fact whether there was a transfer of registration or not?

Respondent No.1 has not come forward to challenge the findings recorded by the Tribunal holding him to be driver of the vehicle at the time of accident, rather he is facing the criminal prosecution arising out of FIR.

The Tribunal while assessing the amount came to the conclusion that the claimant is entitled to award of Rs.1,39,000/- against respondents No.1 and 2 i.e. driver and owner (present appellant) of the offending vehicle along with interest @ 7% per annum from the date of filing of the claim petition till final realization of the amount. If the amount of compensation is not paid within two months then they will make the payment with future interest @ 8% per annum. The liability was held to be

joint and several.

In view of aforesaid discussion, I find that since the driver has not come forward to assail the award holding him to be driver and in view of ratio laid down by the Hon'ble Apex Court in **HDFC Bank vs Reshma Kumari's case (supra)**, I find no error of jurisdiction in the impugned award passed by the Tribunal.

This appeal, is hereby dismissed. The amount of Rs.25,000/- deposited by the appellant be sent to the Executing Court for disbursement to the claimant.

CM No.2966-CII-2017

Since, the appeal has been decided on merits, therefore, there is no necessity of passing any order in the application for condonation of delay.

08.09.2017
jjyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No