

\$~R-98 & R-99

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 26th July, 2017

+ MAC APPEAL No. 458/2009

DIRECTOR OF HEALTH SERVICES Appellant
Through: None.

versus

SURESH KUMAR & ORS. Respondents
Through: None.

+ MAC APPEAL No. 459/2009

DIRECTOR OF HEALTH SERVICES Appellant
Through: None.

versus

HUKUM SINGH & ORS. Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On 19.03.1997, a motor vehicular accident took place involving two vehicles, one being motorcycle make Rajdoot bearing registration no. PBJ 1590 (the motorcycle) and other being Jeep bearing registration no. HPK 5003 (the Jeep). One Arjun Singh was driving the motorcycle and another person Suresh Kumar was travelling with

him as a pillion rider. As a result of collision, Arjun died and Suresh received grievous injuries. The police had registered a case in which the name of Ram Karan as the driver of the Jeep figured.

2. The legal heirs of Arjun Singh instituted accident claim case (suit no. 729/2007) while Suresh Kumar instituted his own accident claim (suit no. 730/2007), both filed on 11.11.1997 in each of which initially the said Ram Karan was impleaded as respondent. Later, upon it being found that the Jeep was registered in the name of the Director of Health Services of the State of Himachal Pradesh (appellant), it was impleaded as second respondent.

3. The second respondent, on being noticed, appeared and filed written statement taking the position that the jeep had been sold in public auction to Kuldeep Singh on 25.10.1986. In the wake of such pleadings, Kuldeep Singh was also added to the fray as third respondent.

4. The tribunal clubbed both the claim petitions and, after inquiry, decided them by common judgment dated 18.12.2008 holding the driver of the jeep responsible for negligence and, thus, awarding compensation in favour of the respective claimants fastening the liability on the appellant rejecting its contention about it not being the owner of vehicle on account of sale by public auction, such finding being based on the analysis of the evidence of K.K. Ratan (R2W1), Block Medical Officer deposing on the strength of his affidavit (Ex.R2W1/A).

5. These appeals were filed to reiterate the contention that the appellant could not be held liable since it had already sold off the vehicle to Kuldeep Singh who is impleaded as one of the respondents in these appeals.

6. The appeals were admitted and put in the list of 'regulars'. When they are taken up and called out none has appeared for the appellant.

7. On perusal of the tribunal's record, this Court finds no substance in the appeals. The evidence of R2W1 has been properly appreciated by the tribunal in the impugned judgment. The said witness was not concerned with the transfer or sale of the vehicle nor had any personal knowledge nor concededly was deposing on the basis of any records. Since his testimony could not result in the documents relating to the sale of the vehicle in question being proved the presumption that the registered owner would be vicariously liable has not been displaced.

8. The appeals are dismissed.

9. In terms of the interim orders, the appellant had deposited the entire awarded amount from which part was released to the respective claimants in the two cases by directions in the order dated 24.11.2009, the balance retained in fixed deposit accounts. The balance shall now be released to the respective claimants.

10. The statutory deposits shall be refunded.

R.K.GAUBA, J.

JULY 26, 2017

nk

