

\$~R-437

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

Decided on: 8th November, 2017

+ **MAC APPEAL No. 1171/2011 & CM No. 23578/2011**

JASPAL SINGH CHADHA Appellant

Through: None.

versus

TARUN SHARMA & ORS. Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant concededly was the registered owner of scooter bearing registration no. DL 9SB 3190 (the scooter) on 17.03.2003 when it came to be involved in a collision with motorcycle bearing registration no. UP 14S 1406 (the motorcycle) in the area of Shah Alam Bandh, near Police Picket, Delhi. The motorcycle was driven by the first respondent (claimant). As per the claim case (petition no. 192/08) instituted on 22.09.2003, the scooter was driven by Bachhey Singh @ Bachhan Singh. The claim case was instituted by the first respondent (the claimant) on the grounds that the collision had taken place due to negligent driving of the scooter by Bachhey Singh @ Bachhan Singh, the said scooter driver having died. The accident

claim case was brought against his legal heirs, they being second to fourth respondents in the appeal.

2. The appellant came to be impleaded as a party in the course of inquiry before the tribunal on account of he being the registered owner of the scooter. Admittedly, he did not appear on being served with the notice. Though he chose to send a reply by speed post, there was no participation by him in the inquiry before the tribunal.

3. The tribunal after inquiry and on the basis of evidence led, by its judgment dated 31.01.2009, returned a finding that the accident had occurred resulting in injuries being suffered by the claimant due to negligent driving of the scooter by Bachhey Singh @ Bachhan Singh. The compensation in the total sum of Rs. 1,25,000/- was awarded and while the legal heirs of Bachhey Singh @ Bachhan Singh were asked to pay Rs. 25,000/-, the liability to pay the balance amount was fastened against the appellant.

4. The appeal at hand was filed questioning the said directions on the averments that he (the appellant) had already sold the vehicle to one Ram Dhan Giri and, therefore, had no connection with it.

5. The appeal was put in the category of 'regulars' to be taken up on its own turn as per order dated 19.08.2013. When it is taken up there is no appearance on behalf of the appellant.

6. The appellant not having participated in the inquiry, there being no just or sufficient reason for such omission, he not having offered to adduce any evidence even at the stage of the appeal to substantiate his plea about sale of scooter prior to the occurrence of accident, the appeal is found devoid of substance and is dismissed.

7. By order dated 23.12.2011, the appellant had been directed to deposit the awarded amount with upto date interest with the Registrar General as a pre-condition to stay against execution. The amount deposited was directed to be put in the fixed deposit receipt with UCO Bank, Delhi High Court Branch with provision for auto-renewal. It appears the appellant had deposited Rs. 75,000/- in terms of the said directions. The amount deposited with accrued interest shall be released to the claimant in terms of the impugned judgment.
8. The statutory deposit that would have been made is also forfeited as costs in favour of the claimant.
9. The appellant shall be obliged to satisfy the award by requisite further deposit with tribunal within 30 days failing which the claimant may enforce by execution proceedings before the tribunal.
10. The appeal is disposed of in above terms.

NOVEMBER 08, 2017
nk

R.K.GAUBA, J.