

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

**FAO No.1290 of 2006 (O&M)
Date of decision: 16.05.2018**

Balwinder Singh

....Appellant

Versus

Sama Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vipul Aggarwal, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

CM No.9390-CII of 2018

In view of the averments mentioned in the application, same is allowed and the main appeal i.e. FAO No.1290 of 2006 is restored to its original number and is taken up today itself.

FAO No.1290 of 2006

Balwinder Singh-appellant (owner of offending vehicle) has come up in appeal against the award dated 18.08.2005 passed in MACT No.7/2004 by the Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.2,50,000/- has been awarded in favour of the claimant-respondent Nos.1 to 4 on account of death of Balwinder Kaur in a motor vehicular accident which took place on 19.10.2003. Respondent No.1 is husband, respondent Nos. 2 & 3 are children and respondent No.4 is mother-in-law of deceased-Balwinder Kaur.

Brief facts of the case are that on 19.10.2003, Balwinder Kaur

(since deceased) was standing along with her sister-in-law Amarjit Kaur at Bus Stand, Jandiala, District Amritsar. In the meantime, a three wheeler bearing registration No. PB-02-Q-9841 being driven by Resham Singh in a rash and negligent manner, came from the side of Amritsar and struck against Balwinder Kaur, as a result of which, she (Balwinder Kaur) fell down and received injuries. She was taken to Guru Nanak Dev Hospital, Amritsar, where she died. With regard to the accident, FIR Ex.PX was registered against the driver of offending vehicle. Consequently, the claimants filed claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver-Resham Singh and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Amarjit Kaur (PW-1), who was an eye witness of the accident. Ultimately, the claim petition was accepted and a sum of Rs.2,50,000/- was awarded in favour of claimants.

While allowing the claim petition, Tribunal has given a finding against the registered owner (present appellant) and driver of the offending vehicle. Liability to pay the compensation has been imposed upon the registered owner and driver of the offending vehicle.

Feeling dissatisfied with the impugned award, registered owner of the offending vehicle has preferred the present appeal. Learned counsel for the appellant contends that the offending i.e. three wheeler was sold by the appellant to one Sahib Singh, who further sold the same to Resham Singh-respondent No.5 herein (respondent No.1 in claim petition). The subsequent purchaser namely Resham Singh was driving the vehicle

without getting the vehicle insured and transferred. Unfortunately, the accident in question took place on 19.10.2003, as a result of which, Balwinder Kaur has died. Since, the offending vehicle was not in possession of the present appellant at the time of accident, therefore, he could not be held liable to pay compensation to the claimants.

I have heard learned counsel for the appellant and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident in question. Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in Naveen Kumar vs. Vijay Kumar and others, Civil Appeal No.1427 of 2018, arising out of SLP (C) No.18943 of 2016, wherein it has been held that in view of the definition of the expression 'owner' in Section 2 (3) of the Motor Vehicle Act, 1988, it is the person in whose name the motor vehicle stands registered who, for the purpose of the Act, would be treated as the 'owner'. Where the registered owner has purported to transfer the vehicle, but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability.

The present case is squarely covered by the aforesaid judgment. In the facts of the present case, admittedly, the offending vehicle i.e. three wheeler has not been proved to be insured with any Insurance Company and appellant-Balwinder Singh is the registered owner of the same. Therefore, liability to pay compensation stands upon him. Though he (appellant) alleged that the vehicle was sold by him to one Sahib Singh, who further sold the same to Resham Singh, but since it was not transferred in the name

of subsequent purchasers, the appellant (registered owner) cannot be absolved of his liability to pay the compensation. Accordingly, after going through the impugned Award in the light of judgment passed in **Naveen Kumr's** case (supra), this Court is of the view that finding, in this regard, has been rightly given by the the Tribunal by holding appellant (registered owner) and driver of offending vehicle liable to pay the compensation. The compensation has also been rightly assessed by the Tribunal and no ground is made out to interfere therein.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

16.05.2018
ajp

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