

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

F.A.O No. 7010 of 2011

Date of decision:- 05.04.2018

Smt. Saveta

...Appellant

Versus

Rakesh and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Ravinder Hooda, Advocate
for the appellant.

Mr. Barjinder Singh, Advocate
for respondent No. 1

Mr. Ashwani Gaur, Advocate
for respondent No. 2.

Mr. Atul Aggarwal, Advocate
for respondent No. 3

Mr. Suvir Dewan, Advocate
for respondent No. 4

RITU BAHRI J.

The present appeal has been preferred by the appellant (for short 'the appellant') against the award dated 30.08.2011 passed by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') granting the recovery rights to the Insurance Company against the present appellant.

The facts which are not in dispute are that on 09.10.2009, the claimant-Rakesh was going back to his house on his motorcycle bearing No.

DL-8SAG-6257. When he reached across petrol pump, in the meantime, a

santro car bearing No. DL-4CJ-3592 came Bahalgarh side and struck against the motorcycle of the appellant. The said car also struck a three wheeler boarded with the passengers. The car was being driven by respondent No. 2-driver of the offending vehicle. In this accident, the appellant suffered multiple and grievous injuries. He was shifted to Maharaj Aggarsain Hospital. F.I.R No. 392 dated 10.10.2009 under Sections 279/337/338 IPC at P.S. Rai, Sonapat.

As per the Tribunal, the injured-claimant in the present case remained in hospital w.e.f 09.10.2009 to 25.10.2009, 25.10.2009 to 28.11.2009, 03.12.2009 to 10.12.2009 and from 10.12.2009 to 31.12.2009 and he had spent Rs.11,40,989/- on his medical treatment. Rs.11250/- were awarded on account of temporary disability to the extent of 45%. Further Rs.18000/- were awarded towards loss of income for 05 months. Rs.60,000/- towards pain and suffering were also awarded. Rs.5000/- were awarded towards transportation, Rs.5000/- were awarded towards special diet and Rs.7500/- towards attendant charges. However, the learned Tribunal fastened the liability upon the present appellant and respondent No. 3 to pay the compensation jointly and severally.

It is not in dispute that respondent No. 3 i.e driver was acquitted by the learned trial Court vide judgment dated 29.04.2016 as he was not identified by the eye witness and further learned counsel for respondent No. 3 has informed this Court that his name was not there in the F.I.R. It is the registered owner i.e respondent No. 1 who is liable to pay the compensation, in view of the law laid down by Hon'ble the Supreme Court in a case of *Naveen Kumar vs. Vijay Kumar and others, 2018 (3) SCC 1*

The parties are not in dispute that the injured-claimant has suffered multiple injuries

Learned counsel for the appellant at the very outset submits that the present appellant is not liable to pay the compensation, as she has filed her detailed written statement before the Tribunal that she is neither the owner or registered owner of the Santro car at the time of alleged accident. She was also not in possession of the offending car. The driver i.e respondent No. 3 was also not deputed by her. The R.C is still in the name of respondent No. 1 i.e registered owner. This fact is also not in dispute. Reference has been made to *Naveen Kumar case (supra)* wherein it has been held that in view of the definition of expression 'owner' in Section 2 (30), it is the person in whose name the motor vehicle stands registered who for the purposes of the Act, would be treated as the owner. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation, such as the present, 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. Parliament has consciously introduced the definition of the expression owner in Section 2 (30) making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of motor accident or in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for

compensation ought not to be burdened with following a trial of successive transfers, which are not registered with the registering authority.

This judgment is directly applicable to the facts of the present case, as in the present case, form No. 29 and 30 which was required to be executed for the transfer of the vehicle, have been proved. Respondent No. 1 continues to be the registered owner of the vehicle till date.

Applying the ratio of the above said judgment to the facts of the present case, the award stands modified to the above extent and the appeal filed by the appellant stands allowed to the extent that the Insurance Company is liable to make the compensation to the claimant and the Insurance Company will have the recovery rights to recover the same from the registered owner i.e respondent No. 1 of the offending vehicle. Remaining conditions of disbursal of amount shall remain unaltered.

05.04.2018

G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No