

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

F.A.O No. 781 of 2011

Date of decision:- 03.04.2018

Raj Kumar

...Appellant

Versus

Mohan Lal and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Inderjit Sharma, Advocate
for the appellant.

Mr. D.D. Bansal, Advocate
for respondent No. 1 and 2.

Mr. Naveen Mahajan, Advocate
for respondent No. 3

Mr. Kushagra Mahajan, Advocate
for respondent No. 4

RITU BAHRI J.

The present appeal has been preferred by the owner/appellant (for short 'the appellants') against the award dated 24.03.2009 passed by the learned Motor Accident Claims Tribunal, Bhatinda (for short, 'the Tribunal') granting the recovery rights to the Insurance Company against the present appellant.

The facts in brief are that on 04.08.2006 Sandeep Kumar left Bathinda for Chamba and reached Noorpur. He along with one Ravi Kumar and 2-3 other persons boarded Maruti Van bearing registration No. HP-02/2986 from Noorpur to Chamba, when they reached near Nehar Nala on

Chuwadi Jot road, respondent No. 1 who was driving the maruti van in a rash and negligent manner lost his control over the said vehicle. As a result of which, the van fell in 60-70 meters deep Nala/Khud, resulting in grievous injuries to the occupants. Sandeep lost his life in this accident. F.I.R No. 61 dated 05.08.2006 was registered against respondent No. 1.

The parties are not in dispute with regard to issue No. 1 i.e rash and negligent driving of respondent No. 1 and the compensation awarded to the appellant is also not under challenge in the present appeal, which is being filed by the appellant-owner of the offending van.

Learned counsel for the appellant at the very outset submits that the present appellant before the Tribunal has categorically stated that he is not the owner of the said offending van and had already sold it through registered general power of attorney on 17.06.1996 to Denial Sunny respondent No. 3 for Rs.1,10,000/- and Denial Sunny had further sold the same to Chime Dorjee respondent No. 4. thus, once the vehicle has been sold by the appellant to respondent No. 3, the present appellant is not liable to pay the compensation.

This argument at the very outset is liable to be rejected in view of the latest judgment of Hon'ble the Supreme Court in a case of ***Naveen Kumar vs. Vijay Kumar and others, passed in Civil Appeal No. 1427-2018, decided on 06.02.2018*** 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 trail 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 by the appellant. Thus, the valid sale made in favour of respondent No. 4 and 5 is not at all proved. The present appellant continues to be the registered owner of the vehicle till date. On the basis of power of attorney dated 17.06.1996, appellant cannot say that he has sold the vehicle to respondent No. 4, as it was a conditional sale. Daniel Sunny will not become the owner nor he was competent to sell, until he repays the loan of the bank, with whom the said offending vehicle was hypothecated. There is no proof that the loan was repaid by respondent No. 4.

In view of the discussion made above, no ground is made out to

interfere in the impugned award dated dated 24.03.2009.

The appeal is dismissed.

03.04.2018

G Arora

(*RITU BAHRI*)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No