

**FAO No.6254 of 2012 &
Cross Objection No.66-CII of 2013 (O&M)**

1

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

**FAO No.6254 of 2012 &
Cross Objection No.66-CII of 2013 (O&M)
Date of decision: 12.01.2018**

Satnam Singh

....Appellant

Versus

Smt. Veeran Devi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vipin Mahajan, Advocate,
for the appellant.

Mr. Vishal Munjal, Advocate,
for respondent Nos.1 to 4-cross objectors.

Mr. B.S. Baath, Advocate,
for respondent No.7.

Mr. Naresh Kaushik, Advocate,
for respondent No.8.

Mr. Ashok Aggarwal, Advocate,
for respondent No.9.

RITU BAHRI J. (Oral)

Satnam Singh-driver of Maruti Car No.PB-02-V-4771 has come up in appeal against the award dated 14.08.2012 passed by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.19,36,000/- has been awarded in favour of the claimants-respondent Nos.1 to 4 on account of death of Madan Gopal in a motor vehicular accident which took place on 13.07.2009.

Respondent-cross objectors Nos.1 to 4 are widow, children and mother of

deceased-Madan Gopal.

On the other hand, cross objectors-respondent Nos.1 to 4 (claimants) have filed Cross Objection No.66-CII of 2013 seeking enhancement of compensation awarded by the Tribunal vide aforesaid Award dated 14.08.2012.

Brief facts of the case are that on 13.07.2009, at about 08/09.00 P.M., Madan Gopal (since deceased) was returning to Gurdaspur in a Maruti Car bearing registration No. PB-02-V-4771. The said car was being driven by Satnam Singh-appellant (respondent No.1 in claim petition). When they reached near Bidhipur Railway crossing, Satnam Singh lost control over the car and struck the same against a tree, as a result of which, Madan Gopal received injuries and died. With regard to the accident, DDR entry dated 14.07.2009 was registered. Consequently, the claimants (respondent Nos. 1 to 4 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the deceased had died due to rash and negligent driving of offending car by its driver-Satnam Singh and thus, returned finding on issue no.1 in favour of the claimants-respondent Nos. 1 to 4. This finding was rightly given on the basis of deposition of Mohinder Pal (AW-2), who was an eye witness of the accident. Moreover, DDR entry dated 14.07.2009 Ex.A2 was registered against the driver of offending car for causing the said accident.

As per salary certificate Ex.A3, deceased was working in the State Bank of India and was drawing net pay of Rs.22,078/-, which was rounded off at Rs.22,000/- i.e. Rs.2,64,000/- per annum, out of which, 1/3rd

amount was deducted towards personal expenses of the deceased.

Dependency of claimants, thus, came to Rs.1,76,000/- per annum. Age of the deceased was 51 years at the time of death/accident. Accordingly, after applying the multiplier of 11, claimants were found entitled to a compensation of Rs.19,36,000/- (Rs.1,76,000 x 11).

Initially, claimants-respondent Nos.1 to 4 had pleaded that Budh Singh (respondent No.2 in claim petition) was owner of the offending vehicle. Later on, Satinder Pal Singh (respondent No.5 in claim petition) was impleaded as party alleging that he was the owner of the offending vehicle. However, Satinder Pal Singh, on appearing before the Tribunal, stated that he had sold the vehicle to Tejinder Pal Singh. Tejinder Pal Singh was later on impleaded as respondent No.6 in the claim petition. He also stated that he had sold the vehicle to Baldev Singh. Thereafter, Baldev Singh was impleaded as respondent No.7, who stated that he had sold the vehicle to Satnam Singh. The Tribunal has observed that since Baldev Singh had pleaded that he had sold the vehicle, liability could not be fastened upon him. Further, Satinder Pal Singh (respondent No.5 in claim petition) had been given up by the claimants, therefore, he could not be held liable to pay the compensation. Ultimately, Satnam Singh-appellant was held liable to pay the compensation.

Feeling dissatisfied with the impugned award, driver of the offending vehicle (appellant) has preferred the present appeal.

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 as died as a result of the accident. The

appellant is assailing the finding given by the Tribunal to the effect that the

entire compensation is to be paid by him, who was a registered owner of the vehicle. This finding has been given on the basis of deposition of Harwinder Singh, Clerk from the office of DTO (RW-1), who stated that the offending vehicle was registered in the name of Satinder Pal Singh son of Hazara Singh and was transferred in his name on 26.03.2008. Thereafter, Satinder Pal Singh was impleaded as respondent No.5. In his written statement, he stated that he had sold the vehicle to Tejinder Singh, who in turn alleged that he had sold the same to Baldev Singh (respondent No.7 in claim petition). Baldev Singh admitted that he was owner of the vehicle, but at certain point of time, he had sold it to Satnam Singh-present appellant (respondent No.1 in claim petition). As per Section 2 (30) of the Act, owner means a person in whose name a motor vehicle stands registered. Section 50 of the Act provides for various requirements of law, which are required to be observed before the vehicle would stand registered from transferor to the transferee and the registration certificate amended incorporating such change. Ultimately, the Tribunal has held that only the registered owner was liable to make payment of compensation. Before the Tribunal, Baldev Singh pleaded that he had sold the vehicle, however, admitted that he was owner as well. But, there was no evidence that registration certificate (RC) had been transferred in the name of Baldev Singh. Satinder Pal Singh (respondent No.5 before the Tribunal) had been given by the claimants. Since Satnam Singh was driving the vehicle, liability to pay compensation was fastened upon him.

Learned counsel for the appellant has argued that the vehicle was registered in the name of Satinder Pal Singh, who was respondent NO.5

before the Tribunal, but he was given up by the claimants and his name was

struck off from the array of respondents. He has further argued that Satnam Singh (appellant) was driving the offending vehicle, but RC of the same was not in his name, therefore, he cannot be held liable to make payment.

Reference, at this stage, can be made to a judgment passed by the Co-ordinate Bench of this Court in **J.S. Choudhary Proprietor of Ambala Finlease Crops vs. Ritu Devi and others**, 2011 (2) PLR 397, wherein it has been observed as under:

“5. In all cases, where the plea of ownership is in question, the first attempt must be to see who is the registered owner. If the registered owner denies ownership and pleads transfer to a 3rd party, but the transferee is not made a party, the Tribunal may call upon any party to direct the impleadment and if the evidence shows admission of transfer by the transferee, the Tribunal will be justified in making the transferee alone as liable. If there is a policy of insurance, no matter the fact of transfer is not notified to the insurer but the insurer is a party in proceedings, the Tribunal will also be justified in making the insurer liable to answer the claim of a third party, by virtue of the provisions under Section 157 (1) of the Motor Vehicle Act, constituting the deeming provisions for transfer of policy of insurance. If the transferor is impleaded and he denies the transfer but the Tribunal finds prima facie evidence of transfer, such as proof of delivery, payment of consideration and the contract details, evidence of transfer through the fact of who applied for custody of the vehicle from Criminal Court, evidence of driver etc., the Tribunal will again be justified in making the award against the transferee. However, if the issue of transfer itself becomes contentius and the Tribunal is unable to gather materials regarding the transfer, it is better left alone for independent adjudication before appropriate forum. The Tribunal shall in such cases, pass the award against the registered owner, leaving it open to him to adopt recoveries before the appropriate forum, if in law, he is entitled to a course that the Supreme Court adopted in **T.V. Jose (Dr.) V. Chacko P.M.**, (2001) 8 SCC 748.”

Hon'ble the Supreme Court in **Vasantha Viswanathan and others vs. V.K. Elayalwar and others**, (2001) 8 SCC 133 has interpreted the

difference between the procedure set out in Section 50 of the Act for transfer of ownership and transfer of ownership under Section 19 of the Sale of Goods Act. It has been further observed as under:-

“10. Section 31 of the Motor Vehicles Act, 1939 lays down that where the ownership of any motor vehicle registered under the Motor Vehicles Act is transferred, the transferor and transferee both are required to report the fact of transfer to the registering authority so that particulars of transfer of ownership may be entered in the certificate of registration. The transfer is not effected under Section 31 of the Motor Vehicle Act, 1939, but the same simply prescribes procedure for entering the factum of transfer in the registration certificate, which is an act posterior to the transfer. The transfer of vehicles in question would be governed by the provisions of Section 19 of the Sale of Goods Act according to which, property in the vehicle would pass to Defendant 1 at such time as the parties to the contract intend it to be transferred. Thus, the passing of property in the goods would be dependent upon the intention of the parties, as evidenced from the contract.”

Applying the ratio of the above two judgments to the facts of the present case, as per deposition of Harwinder Singh, Clerk from the office of DTO (RW-1), Satinder Pal Singh was the registered owner of offending vehicle and he was impleaded as respondent No.5 in the claim petition. But he was given up by the claimants. However, in the written statement, he pleaded that he had sold the vehicle to Tajinder Singh, who in turn, alleged that he had sold the same to Baldev Singh (respondent No.7 in claim petition). Baldev Singh had admitted that he was owner of the vehicle, but stated that he had sold the same to Satnam Singh (present appellant). Once, Baldev Singh had admitted that he was owner of the vehicle, as per judgment passed in **J.S. Choudhary's** case (supra), the Tribunal was required to return a finding, after recording evidence from

Satinder Pal Singh, as to when he had purchased the same.

In view of the above discussion, the impugned award is set aside and the matter is remanded back to the Tribunal with a direction to take fresh evidence from the subsequent purchasers of the vehicle, which was initially in the name of Satinder Pal Singh by providing them opportunities to lead evidence, as to how they have purchased the same. Thereafter, the Tribunal shall pass a fresh order on the claim petition by re-examining the matter on the issue of ownership of vehicle. Parties, through their counsel, are directed to appear before the Tribunal.

Disposed of in the aforesaid terms.

(RITU BAHRI)
JUDGE

12.01.2018
ajp

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