

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

Date of decision: 7.3.2018

1. **FAO No.6565 of 2012(O&M)**

Jang Bahadur DhawanAppellant

VERSUS

Krishan Kumar and othersRespondents

Present: Mr. Mahavir Sandhu, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for respondent No.1.

Mr. Robin Dutt, Advocate for respondent No.3.

2. **FAO No.2371 of 2013(O&M)**

Balwant SinghAppellant

VERSUS

Sohan Lal and othersRespondents

Present: Mr. Robin Dutt, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for respondent No.1.

Mr. Mahavir Sandhu, Advocate for respondent No.2.

3. **FAO No.2372 of 2013(O&M)**

Balwant SinghAppellant

VERSUS

Krishan Kumar and othersRespondents

Present: Mr. Robin Dutt, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for respondent No.1.

Mr. Mahavir Sandhu, Advocate for respondent No.2.

4.

FAO No.4931 of 2014(O&M)

Jang Bahadur Dhawan

.....Appellant

VERSUS

Sohan Lal and others

.....Respondents

Present: Mr. Mahavir Sandhu, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for respondent No.1.

Mr. Robin Dutt, Advocate for respondent No.3.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J.

This order will dispose of FAO Nos.6565 of 2012, 2371, 2372 of 2013, 4931 of 2014, cross objections No.217-CII of 2014 in FAO No.2371 of 2013 and cross objections No.218-CII of 2014 in FAO No.2372 of 2013 as these have emerged out of the same award dated 28.07.2012 passed by the Motor Accidents claims Tribunal, Ambala (in short 'the Tribunal') whereby compensation has been awarded on account of injuries suffered by Sohan Lal and Krishan Kumar @ Krishan Chand in a motor vehicular accident that took place on 21.01.2010.

FAO No.6565 of 2012 and 4931 of 2014 have been filed by the registered owner of the offending vehicle i.e. Motorcycle No.HR-02M-0410 whereas FAO Nos.2371 and 2372 of 2013 have been filed by the alleged purchaser of the aforesaid motorcycle. Cross objections have been filed by Sohan Lal, and Krishan Kumar @ Krishan Chand, injured victim, for enhancement of compensation.

For the facility of reference, the registered owner shall be referred to as 'the appellant', subsequent purchaser of motorcycle as 'purchaser' and the cross objectors as 'claimants'.

FAO Nos.6565 of 2012 and 4931 of 2014

The sole submission made by counsel for the appellant is that as the vehicle in question stood sold by him to Balwant Singh (respondent No.2-A therein) prior to the occurrence, the appellant cannot be fastened with liability to pay compensation. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Purnya Kala Devi Vs. State of Assam, (2014) 14 SCC 142** and **HDFC Bank Limited Vs. Reshma, (2015) 3 SCC 679.**

Counsel representing the respondents have supported findings of the Tribunal holding the appellant liable to pay compensation being registered owner of the vehicle and vicariously liable for rashness and negligence attributed to driver of the vehicle in question.

Indisputably, the appellant was the registered owner of the motorcycle in question on the day of occurrence. On account of rash and negligent driving of the said motorcycle by Jagjit Singh having caused injuries to Sohan Lal and Krishan Kumar, appellant cannot escape his liability to pay compensation even if his plea is accepted that he had sold the vehicle in question by way of affidavit in favour of Balwant Singh, purchaser thereof. Controversy raised in the present appeals is squarely covered by the latest judgment of Hon'ble the Supreme Court **Naveen Kumar Vs. Vijay Kumar and others, Civil Appeal No.1427 of 2018 arising out of SLP (C) No.18943 of 2016, decided on 06.02.2018**

wherein Hon'ble the Apex Court on a detailed consideration of the

judgment in **Purnya Kala Devi's case** (supra) and **Reshma's case** (supra) but by relying upon definition of 'owner' in Section 2(30) of the Motor Vehicles Act, 1988 has held that the registered owner of the vehicle cannot escape his liability to pay compensation. In this view of the matter, contention raised by counsel for the appellant is devoid of merit and ordered to be rejected.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed. No order as to costs.

FAO Nos.2371 and 2372 of 2013

Counsel for the purchaser of the motorcycle in question would urge that evidence adduced by the appellant with regard to sale of the vehicle in question is not at all sufficient to establish plea of the appellant that the vehicle stood sold to the purchaser. It is further argued that the appellant being registered owner of the vehicle can neither escape his liability to pay compensation nor can pass over that liability upon the purchaser. To bring home his contention, he has pointed out towards paras 56 to 62 of the award passed by the Tribunal. It is further argued that Sunder Lal, Stamp Vendor RW-1 has admitted in his cross examination that detailed address, age and particulars of Balwant Singh have not been mentioned on the reverse side of affidavit, therefore, the appellant has failed to prove that Stamp Paper for execution of affidavit Ex.R2 was purchased in the name of Balwant Singh (respondent No.2-A therein).

Counsel representing the appellant has supported findings of the Tribunal holding the purchaser jointly and severally liable to pay compensation to the claimants.

To substantiate his plea that the vehicle in question already stood sold by the appellant to the purchaser on the basis of affidavit Ex.R2, Jang Bhadur Dhawan – appellant examined himself, Sunder Lal, Stamp Vendor RW-1 and Shamsheer Singh Kamboj, Notary RW-3. No doubt, on the back of stamp paper on which affidavit Ex.R2 is prepared, detailed particulars of the person in whose name the stamp paper was purchased have not been given. However, Shamsheer Singh Kamboj RW-3 has categorically deposed that Balwant Singh along with Jang Bahadur Dhawan came to him in District Courts, Jagadhari for attestation of affidavit Ex.R2 and at the time of attestation of the affidavit he had seen ration card of Balwant Singh. Balwant Singh did not appear in the witness box to counter testimonies of the appellant and his witnesses or to say on oath that affidavit Ex.R2 was not executed by him. As per the settled position in law, if a party fails to appear in the witness box without any tangible explanation, adverse inference is liable to be drawn against him. This apart, purchaser has not alleged any ill-will or enmity against him by Jang Bahadur Dhawan to fabricate the affidavit Ex.R2 just with a view to escape his liability to pay compensation to the injured victims. Analyzed from any angle the purchaser has failed to substantiate his plea that findings recorded by the Tribunal accepting plea of the appellant that the vehicle in question stood sold by him by way of affidavit are erroneous and liable to be set aside. In this view of the matter, conclusions drawn by the Tribunal holding the purchaser jointly and severally liable to pay compensation along with the registered owner of the vehicle cannot be faulted with.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed. No order as to costs.

XOBJC-217-CII of 2014 in FAO No.2371 of 2013
& XOBJC-218-CII of 2014 in FAO No.2372 of 2013

Counsel for the cross objector is not in a position to advance any argument much less meaningful to substantiate his claim for enhancement of compensation over and above what has been allowed by the Tribunal. Accordingly, cross objections are ordered to be dismissed.

MARCH 7, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no