

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-2995-2015 (O&M)
Date of Decision: 24.07.2018

Sushil Singh

--Appellant

Versus

Krishna Mahajan & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Monika Arora, Advocate for the appellant.

Mr. Jagjit Singh Gill, Advocate for respondent no.5.

Mr. R.K. Arya, Advocate for respondent no.8.

TEJINDER SINGH DHINDSA.J (Oral)

A claim petition under Section 166 of the Motor Vehicle Act i.e. M.A.C.T Case No.100 of 2013 was filed before the Motor Accident Claims Tribunal (herein after to be referred as the Tribunal), Gurdaspur seeking compensation to the tune of Rs.20 lacs on account of death of Shashi Pal in a motor vehicle accident that took place on 13.5.2013. Claimants were the widow, two sons and daughter of Shashi Pal (since deceased).

The claim petition came to be decided vide award dated 3.1.2015 by the Tribunal and whereby a total compensation amount of Rs.4,28,000/- has been awarded in favour of the claimants along with interest @ 6% per annum from the date of filing of the claim petition till actual realization. Respondent no.2 namely Sunny Sharma and respondent no.4 Sushil Singh have been held jointly and severally liable to pay the compensation amount. It would be apposite to take note that the offending vehicle was not insured.

Instant appeal has been filed by Sushil Singh (respondent no.4 in the claim petition before the Tribunal) assailing the award dated 3.1.2015

passed by the Tribunal to the extent he has been held jointly liable to pay the compensation amount to the claimants.

The precise argument raised by counsel representing the appellant is that on the date of the accident i.e. 13.5.2013 the offending vehicle i.e. Scorpio bearing registration no. PB-06-E-0418 was in the registered ownership of Natinder Singh son of Gurdev Singh, respondent no.5 and who has been completely absolved of the liability by the Tribunal.

Mr. J.S. Gill, Advocate representing respondent no.5 would vehemently contend that even though on the date of accident respondent no.5 was the registered owner of the vehicle but he had actually sold the same to Sushil Singh (appellant herein) on 21.1.2012 and which fact had been conceded by the appellant. He urges that Sushil Singh had taken a stand that the offending vehicle stood further sold to Jasbinder Kumar son of Kaka Ram (respondent no.8) on 29.4.2013 and which is also prior to the date of accident. It is argued that under such circumstances and in the light of the clear admission by the appellant with regard to purchase of the offending vehicle on 21.1.2012, the appellant cannot escape the liability of paying the compensation amount to the claimants.

Counsel for the parties have been heard at length and the case paper book has been perused.

The short question that arises for consideration in the instant appeal is with regard to the liability of a registered owner of the offending vehicle in relation to the date of accident and which otherwise was not insured.

The question formulated herein above is no longer *res integra*.

In a recent judgement in ***Naveen Kumar Vs. Vijay Kumar and Ors., 2018 (2) JT 136***, the Apex Court had examined and dealt with the scope of the expression “owner” as defined in Section 2(30) of the Motor Vehicle Act, 1988 and had held as follows:-

“12.The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the 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 a 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. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the ‘owner’ of the vehicle involved in the accident within the meaning of [Section 2\(30\)](#). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a

misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi.

13. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under [Section 50 \(3\)](#) but will not invalidate the transfer of the vehicle. In Dr T V Jose, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of [Section 2\(30\)](#) is liable to compensate. The mandate of the law must be fulfilled.”

In the considered view of this Court, the Tribunal while passing the impugned award dated 3.1.2015 has clearly erred in absolving the registered owner of the offending vehicle i.e. Natinder Singh son of Gurdev Singh (respondent no.5) of the compensation liability to be made good to the claimants.

The submission raised by counsel representing respondent no.5 as regards the appellant having admitted before the Tribunal with regard to having purchased the vehicle in question on 21.1.2012 would pale into insignificance in view of the admitted position of fact that as on the date of accident i.e. 13.5.2013 he was still the registered owner of the offending vehicle bearing registration no. PB-06-E-0418. It may be noticed that even in the case of **Naveen Kumar** (supra) the accident had taken place on 27.5.2009 and in which a Maruti car bearing registration no. DL-3CC-3684 was involved and in which one Nitin lost his life and Smt. Jai Devi had received multiple injuries. As on the date of the accident Vijay Kumar was the registered owner of the offending vehicle. Vijay Kumar had taken a stand that he had sold the vehicle to the second respondent on 12.7.2007 i.e. prior to the accident and had handed over possession of the vehicle together

with relevant documents including the registration certificate and forms 29 and 30 to facilitate transfer of the vehicle. The second respondent in turn had stated before the Tribunal that he had sold the vehicle further to third respondent on 18.9.2008 i.e. a date prior to the accident. In other words, even in the case of Naveen Kumar the second respondent had not denied the purchase of the offending vehicle from the registered owner i.e. Vijay Kumar. In spite of such factual premise the Apex Court by interpreting the expression “owner” under Section 2(30) of the Motor Vehicle Act had fastened the entire liability upon Vijay Kumar, who happened to be the registered owner of the vehicle at the relevant point of time i.e. 27.5.2009, the date of accident.

The dictum laid down in *Naveen Kumar's* case (supra) would apply on all fours even to the facts of the present case.

In view of the above, present appeal is allowed.

The award dated 3.1.2015 passed by the M.A.C.T, Gurdaspur is modified to the extent that the entire compensation amount liability would be made good by respondent no.5 i.e. Natinder Singh son of Gurdev Singh being the registered owner of the offending vehicle bearing registration no. PB-06-E-0418 on the date of accident i.e. 13.5.2013 as also respondent no.6 i.e. Sunny Sharma, driver of the offending vehicle.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

24.07.2018

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No