

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

FAO No. 6158 of 2013 (O&M)
Date of decision : October 15, 2018

State of Haryana

..... Appellant

v.

Hoshiar Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Dr. Sushil Gautam, DAG Haryana
for the appellant.

Mr. PK Chugh, Advocate
for respondents No.1 and 2.

Mr. Aminder Singh, Advocate
for respondents No.3 to 7.

Ajay Tewari, J (Oral)

C.M No.25397 CII of 2013

For the reasons recorded, this application is allowed and delay
of 39 days in filing the appeal is condoned.

FAO No.6158 of 2013

This appeal has been filed against the Award of the Tribunal by
the State of Haryana. Since a very limited point has been raised, detailed
reference to the facts would not be required.

The admitted facts are that the offending vehicle had been
purchased at a government auction but before the same could be transferred

in the name of the intending purchaser, the accident had taken place. The Tribunal held that in these circumstances the primary duty to pay the compensation would be of the State of Haryana but it granted recovery rights against the purchaser. This appeal has been filed praying that the State Government should be completely exculpated and if any recovery had to be made, it had to be made from the purchaser.

In my considered opinion, this appeal must fail. In Naveen Kumar v. Vijay Kumar, 2018(2) RCR (Civil) 74, the Supreme Court has held as under :-

8 The decision of the Bench of two judges of this Court in Pushpa alias Leela (supra) was in a case where the offending vehicle was registered in the name of J who had sold it to S on 2 February 1993 and had given possession to the transferee. On the date of the transfer the truck was covered by a valid policy of insurance. Despite the sale of the vehicle the change of ownership was not reflected in the certificate of registration. The policy of insurance expired on 24 February 1993. Subsequently S took out an insurance policy in the name of the registered owner and it was valid and subsisting when the accident took place on 7 May 1994. The Tribunal held that no liability to pay compensation attached to J since he had ceased to be the owner of the vehicle after its sale on 2 February 1993. S alone was held to be liable for the payment of compensation to the claimants. On these facts the Bench of two judges of this Court held as follows:

“11. It is undeniable that notwithstanding the sale of the vehicle neither the transferor Jitender Gupta nor the transferee Salig Ram took any step for the change of the name of the owner in the certificate of registration of the vehicle. In view of this omission Jitender Gupta must be deemed to continue as the owner of the vehicle for the purposes of the Act, even though under the civil law he ceased to be its owner after its sale on 2-2-1993.”

It is admitted that on the date when the accident took place, the offending vehicle was registered in the name of the owner. In the circumstances, no fault can be found with the Award of the Tribunal and the

State would have to pay the amount and can recover it from the purchaser and the driver as ordered by the Tribunal. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

October 15, 2018
'kk'

(AJAY TEWARI)
JUDGE

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