

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

**1. Date of decision: 19.04.2018
FAO No.2915 of 2016 (O&M)**

Shanu Jacob

....Appellant

Versus

Smt. Asharfi and others

....Respondents

2. FAO No.2924 of 2016 (O&M)

Shanu Jacob

....Appellant

Versus

Smt. Haruni and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.S. Patwalia, Senior Advocate,
with Mr. Sahil Sablok, Advocate,
for the appellant(s).

Mr. Ashish Gupta, Advocate,
for claimants-respondent Nos.1 to 5 (in FAO-2915-2016) and
for claimants-respondent Nos.1 to 4 (in FAO-2924-2016).

Mr. Gaurav Gupta, Advocate,
for respondent Nos.6 and 7 (in FAO-2915-2016) and
for respondent Nos. 5 and 6 (in FAO-2924-2016).

RITU BAHRI J. (Oral)

This judgment will disposed of FAO No.2915 of 2016 and
2924 of 2016 as both have arisen out of common award. Moreover, common
questions of law and facts are involved in both the appeals.

FAO No.2915 of 2016 has been filed by Shanu Jacob-appellant (registered owner of offending vehicle) against the award dated 26.02.2016 passed in MACT No.83/2014 by the Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.9,01,936/- has been awarded in favour of the claimant-respondent Nos.1 to 5 (Asharfi etc.) on account of death of Arshad in a motor vehicular accident which took place on 05.09.2013. Respondent Nos.1 to 5 are parents and brothers of deceased-Arshad.

Similarly, **FAO No.2924 of 2016** has been filed by the appellant against the award dated 26.02.2016 passed in MACT No.84/2014, whereby compensation of Rs.9,01,936/- has been awarded in favour of claimants-respondent Nos. 1 to 4 (Smt. Haruni etc.) on account of death of Munfed in the above said accident, which took place on 05.09.2013.

Brief facts of the case are that on 05.09.2013, Arshad and Munfed (since deceased) were going to Punhana from village Shikrawa on a motorcycle bearing engine No. HA10ELD9D04581, chasis No.MHLHA10ASD9002392. The said motorcycle was being driven by Arshad. At about 2.15 P.M., when they reached ahead of brick kiln in the area of village Shikrawa, a Maruti van bearing registration No. DL-6-CE-7057 being driven by Summan-respondent No.6 (respondent No.1 in claim petition) in a rash and negligent manner, came from the side of Punhana and struck against the motorcycle, as a result of which, both Arshad and Munfed fell down and received injuries. Their motorcycle was badly damaged. Arshad died on the spot, whereas Munfed succumbed to the injuries on the way to hospital. With regard to the accident, FIR No.381 dated 05.09.2013, under Sections 279/337/304-A IPC was registered at Police Station,

Punhana against the driver of offending vehicle. Consequently, the claimants filed separate claim petitions before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver-Summan and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Shakil Ahmed (PW-3), who was an eye witness of the accident and on whose statement FIR Ex.P11 was registered. Further, the claimants have also proved on record copy of charge-sheet Ex.P1, report under Section 173 Cr.P.C. Ex.P2 etc. Ultimately, the claim petitions were accepted and a sum of Rs.9,01,936/- each was awarded in favour of claimants in both the claim petitions.

While allowing the claim petition, Tribunal has given finding on issue No.3 against the registered owner (present appellant) and driver of the offending vehicle, as the offending vehicle was not insured at the time of accident. Hence, in the absence of any evidence, liability to pay the compensation has been imposed upon the registered owner and driver of the offending vehicle.

Feeling dissatisfied with the impugned award, registered owner of the offending vehicle has preferred the present appeals. Learned counsel for the appellant(s) contends that the offending i.e. Maruti Van bearing No.DL-6-CE-7057 was sold by the appellant to one Kullu in the year 2008, who further sold the same. The vehicle was lastly sold to respondent-Shehjad in the year 2010. The subsequently purchaser namely Shehjad had employed driver-Summan without getting the vehicle insured and transferred. Unfortunately, the accident in question took place on

05.09.2013, as a result of which, two young boys namely Arshad and Munfed have died. Since, the offending vehicle was not in possession of the present appellant at the time of accident, therefore, he could not be held liable to pay compensation to the claimants.

I have heard learned counsel for the appellant(s) and perused the case file.

The fact of accident is admitted and proved. It stands established that both the deceased have died as a result of the accident in question. Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in Naveen Kumar vs. Vijay Kumar and others, Civil Appeal No.1427 of 2018, arising out of SLP (C) No.18943 of 2016, wherein it has been held that in view of the definition of the expression 'owner' in Section 2 (3) of the Motor Vehicle Act, 1988, it is the person in whose name the motor vehicle stands registered who, for the purpose of the Act, would be treated as the 'owner'. 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.

The present case is squarely covered by the aforesaid judgment. In the facts of the present case, admittedly, the offending vehicle was uninsured and appellant-Shanu Jacob is the registered owner of the same. Therefore, liability to pay compensation stands upon him. Though he (appellant) alleged that the vehicle was sold by him to one Kullu in the year 2008, but since it was not transferred in the name of subsequent purchasers, the appellant (registered owner) cannot be absolved of his liability to pay the compensation. Accordingly, after going through the impugned Award in

the light of judgment passed in Naveen Kumr's case (supra), this Court is of the view that finding on issue No.3 has been rightly given by the the Tribunal by holding appellant (registered owner) and driver of offending vehicle liable to pay the compensation. The compensation has also been rightly assessed by the Tribunal and no ground is made out to interfere therein.

Resultantly, both the appeal i.e. FAO No.2915 of 2016 and 2924 of 2016 are dismissed.

(RITU BAHRI)
JUDGE

19.04.2018
ajp

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