

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

FAO No.2920 of 2016(O&M)

Date of decision: 18.12.2018

Suresh Tiwari

.....Appellant

VERSUS

Chanderwati and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. C.B. Goel, Advocate for the appellant.

Mr. Neeraj Jain, Advocate for

Mr. Balram Prashar, Advocate for respondent No.5.

REKHA MITTAL, J. (Oral)

CM No.10655-CII of 2016

Prayer in this application is for condoning delay of 86 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Suresh Tiwari – appellant, the application is allowed. Delay of 86 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.2920 of 2016

Suresh Tiwari, alleged subsequent purchaser of offending vehicle No.HR-55F-8349 has filed the instant appeal against award dated 29.08.2015 to express his grievance qua the limited extent that Tarun Bhasin – respondent No.5, admittedly the registered owner of aforesaid vehicle on the date of occurrence has been exonerated of liability to pay compensation.

It is argued that as respondent No.5 was registered owner of the vehicle on the day of occurrence, he cannot escape his liability to pay compensation in view of definition of 'owner' under Section 2(30) of the Motor Vehicles Act, 1988 (in short 'the Act'). In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Naveen Kumar Vs. Vijay Kumar and others, 2018(2) Scale 263** and latest judgment **Prakash Chand Daga Vs. Saveta Sharma and others, Civil Appeal No.11369 of 2018 Arising out of SLP(Civil)No.27296 of 2018, decided on 14.12.2018.**

Be that as it may, it is undisputed position of the case that Tarun Bhasin – respondent No.5 was the registered owner of the vehicle in question on the day of occurrence. Hon'ble the Supreme Court in **Naveen Kumar's case** (supra) after scanning in detail the definition of owner under Section 2(30) of the Act and earlier judgments of the Court **Dr. T.V. Jose Vs. Chacko P.M., 2002(1) RCR (Civil) 120, P P Mohammed vs K Rajappan, 2008 (17) SCC 624, Purnya Kala Devi vs. State of Assam, (2014) 14 SCC 142** and **Pushpa @ Leela and others Vs. Shakuntla and others, AIR 2011 SC 682** has held that in view of 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. 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. Further held that 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.

Similarly in **Prakash Chand Daga's case** (supra), the Court has held the registered owner to be liable to pay compensation irrespective of whether period of 30 days envisaged in Section 50 of the Act for transfer of the vehicle in the name of transferee had or had not expired by the time the accident had taken place. In view of enunciation laid down by Hon'ble the Supreme Court, it is difficult to affirm findings of the Tribunal that respondent No.5, registered owner of the vehicle, is not liable to pay compensation. As a natural corollary, all the respondents before the Tribunal would be jointly and severally liable to pay compensation.

In view of what has been discussed hereinabove, the appeal is partly allowed in the aforesaid terms.

DECEMBER 18, 2018

'D. Gulati'

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no