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

FAO No.6491 of 2015(O&M)
Date of Decision: February 22, 2018

Bhalwinder Singh ...Appellant

Versus

Rajwant Kaur and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Gopal Singh Nahel, Advocate for the appellant.

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HARINDER SINGH SIDHU, J.

Challenge in this appeal is to the impugned Award dated 23.7.2015 of Motor Accident Claims Tribunal, Tarn Taran (for short 'the Tribunal'), whereby, the claim petition filed by the respondent – claimants under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the death of Jagraj Singh in a vehicular accident, involving Tractor No.PB37C-6389, has been allowed. The liability to pay the compensation of Rs.7,77,000/- along with interest was fastened upon the appellant and respondent No.6, who were its registered owner and driver, respectively at the time of the accident.

Relying on the decision of the Hon'ble Apex Court in **HDFC Bank Ltd. vs. Kumari Reshma and others**, **SLP No.19079-19080 decided on 1.2.2014**, the sole argument of the learned counsel for the appellant – registered owner is that the liablility could not be fastened on him as he had sold the offending tractor to one Gurpreet Singh son of Minder Singh resident of village Hans Kalan and also got executed an affidavit in his favour. Said Gurpreet Singh further sold the tractor to Antarpal Singh, who also sold the same to one Jagdish Singh. Jagdish Singh sold the offending tractor to one Karnail Singh and now the said vehicle is owned by Raja Ranjit Singh – respondent No.6, who was driving the same at the time of the accident.

The contention cannot be accepted in view of the recent decision of Hon'ble Supreme Court in **Naveen Kumar vs. Vijay Kumar and others, 2018 SCC OnLine SC 84**, wherein, various decisions on this issue including the one relied on by learned counsel for the appellant were discussed and it was concluded as follows:

> ***"15.*** *The subsequent decision of a Bench of three judges of this Court in HDFC Bank Limited v. Reshma (supra) involved an agreement of hypothecation. The Tribunal held the financier of the vehicle to jointly and severally liable together with the owner on the ground that it was under an obligation to ensure that the borrower had not neglected to get the vehicle insured. The High Court had dismissed the appeal filed by the Bank against the order of the Tribunal holding it liable together with the owner. In the appeal before this Court, Justice Dipak Misra (as the learned Chief Justice then was) adverted during the course of the judgment to the principles laid down by this Court in several earlier decisions, including of this Court.*
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> ***16.*** *Noticing that the case before the court involved a hypothecation agreement, this Court held:*
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>> *"22. In the present case, as the facts have been unfurled, the appellant Bank had financed the owner for purchase of the vehicle and the owner had entered into a hypothecation agreement with the Bank. The borrower had the initial obligation to insure the vehicle, but without insurance he plied the vehicle on the road and the accident took place. Had the vehicle been insured, the insurance company would have been liable and not the owner. There is no cavil over the fact that the vehicle was the subject of an agreement of hypothecation and was in possession and control of Respondent 2."(id at page 693)*
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> ***17.*** *Since the Second respondent was in control and possession of the vehicle this Court held that the High Court was in error in fastening the liability on the financier. The failure of the Second respondent to effect full payment for obtaining an insurance cover was neither known to the financier nor was there any collusion on its part. Consequently, the High Court was held to be in error in fastening liability on the financier.*

18. *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."*

In view thereof there is no merit in the appeal.

Dismissed.

February 22, 2018 **(HARINDER SINGH SIDHU)**

gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No