

In the High Court of Punjab and Haryana at Chandigarh

FAO- 7475 of 2016(O&M)

Date of Decision:31.5.2018

Lakhwinder Singh

---Appellant

vs.

Daljit Singh @ Bhutto and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Raj K.Kakkar, Advocate
for the appellants
Mr. Baltaj S.Sidhu, Advocate
for Lrs of respondent No. 1 (i) to (iii)

Rekha Mittal, J.

The present appeal directs challenge against award dated 5.7.2016 passed by the Motor Accidents Claims Tribunal, Fazilka whereby application filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 (in short “the Act”) for grant of compensation on account of death of Surinder Kumar in a motor vehicular accident that took place on 12.3.2014, has been allowed.

The sole submission made by counsel for the appellant (registered owner of the vehicle) is that as the vehicle in question was sold by the appellant to Daljit Singh @ Bhutto, driver of Alto car No.HR-29Q-9186 on 26.11.2013 prior to the accident that occurred on 12.3.2014, liability to pay compensation has wrongly been fastened against the appellant while exonerating Daljit Singh @

Bhutto though the present appellant has been left at liberty to avail remedy against respondent No. 1. It is argued with vehemence that respondent No. 1 did not appear before the Tribunal, therefore, there is no counter to plea of the appellant with regard to sale of the vehicle in question on 26.11.2013 and so also the affidavits mark 'A' and 'B' produced before the Tribunal regarding sale and purchase of Alto car in question.

There is no representation on behalf of respondent No. 1 (i) to (iii) earlier being represented by a counsel.

I have heard counsel for the parties, perused the paper book particularly the award.

Indisputably, Lakhwinder Singh was registered owner of the vehicle on 12.3.2014, the day the accident in question took place. He cannot escape his liability to pay compensation to the claimants by raising a plea that the vehicle stood sold by him to respondent No. 1 on the basis of affidavits dated 26.11.2013. The learned Tribunal has rightly held the appellant liable to pay compensation by relying upon judgments of Hon'ble the Supreme Court *T.V.Josh vs. Chacko P.M. (2001) 8 SCC 748* and *Pushpa alias Leela and others v. Shakuntala and others 2011 AIR (SC) 682*. In this context, reference can also be made to latest judgment of Hon'ble the Supreme Court *Naveen Kumar vs. Vijay Kumar and others (2018) ACC 549* wherein Hon'ble the Apex Court by dealing with the judgment in *T.V.Josh's case (supra)* and *Pushpa alias Leela and others case (supra)* coupled with definition of owner under Section 2(30) of the Act has held that the registered owner cannot escape liability to pay compensation by raising a plea that the vehicle in question already stood sold prior to the occurrence. In this view of the matter, no fault can be found in findings recorded by the Tribunal holding the appellant liable to pay compensation.

Now the question arises whether the Tribunal has rightly exonerated respondent No. 1 of his liability to pay compensation,. As per averments of the

claimants, accident in question took place when Alto Car bearing No. HR-29Q-9186 was driven by Daljit Singh @ Bhutto son of Baldev Singh.

The Tribunal framed issue No. 1 to the following effect:-

“Whether the accident occurred due to rash and negligent driving of Alto Car bearing No. HR-29Q-9186 by respondent No. 1? OPC”

On due consideration and appreciation of materials on record, issue No. 1 was answered in favour of the claimants and against the respondents. It is beyond comprehension as to how the Tribunal has held appellant alone liable to pay compensation despite recording a categoric finding that the accident in question took place due to rash and negligent driving of the offending vehicle by Sh. Daljit Singh @ Bhutto. In the given scenario, respondent No.1 is certainly liable to pay compensation being driver of the offending vehicle. As respondent No. 1 is liable to pay compensation alongwith respondent No. 2 (appellant herein) being registered owner of the vehicle, this Court need not to dilate on the issue as to whether the vehicle in question stood sold by the appellant in favour of respondent No. 1 on 26.11.2013, on the basis of affidavits Mark 'A' and 'B'. In view of the above, the appellant and respondent No. 1 shall be jointly and severally liable to pay compensation to the claimants.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

31.5.2018

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Whether speaking/reasoned: Yes

Whether reportable : Yes/No