

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

**FAO No.1729 of 2018 (O&M)
Date of Decision :05.12.2018**

Ravi Kumar

....Appellant

VERSUS

Surinder Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Ashish Goel, Advocate for Mr. KBS Mann, Advocate for the appellant.

B.S. WALIA, JUDGE (ORAL).

1. Appeal has been filed by the registered owner of the offending vehicle challenging the award on the ground that in fact the appellant had sold the offending truck to respondent No.3 on 25.4.2014 therefore, he had nothing whatsoever to do with the offending truck and had wrongly been saddled with liability.

2. Brief facts of the case leading to the filing of the appeal are that a claim petition was filed by respondent Nos.1 and 2 against respondent No.3 and the appellant besides, the Insurance Company. In the written statement filed by respondent No.3 i.e. the driver of the offending vehicle, stand was that he had been falsely involved in the alleged accident at the instance of the owner of the truck i.e. the appellant herein and friend of deceased Sandeep Dadra namely Harjinder Singh with the connivance of the police and that he was earlier working as driver with the appellant but had left the job of the appellant in the month of August 2014 due to non-payment of salary in time and that the appellant had repeatedly been contacting him for rejoining the job as driver but

respondent No.3 had refused to rejoin the job with the appellant and due to grudge and to take revenge, the appellant with the connivance of police of Police Station, Shahkot, Jalandhar falsely implicated his name in FIR No.266 dated 10.11.2014 registered at Police Station Shahkot under Sections 279, 337, 338, 304-A IPC and that as the accident did not take place on account of rash and negligent act on the part of respondent No.3, therefore, he was not liable to pay any compensation to the claimants and prayed for dismissal of the claim petition.

3. The appellant also filed written statement before the learned Motor Accident Claims Tribunal, Jalandhar contending that the offending truck had been sold by him to respondent No.3 vide agreement dated 25.4.2014, therefore, he was not necessary party and not liable to pay the compensation as claimed and further that as per agreement, possession of the vehicle had been delivered to respondent No.3 and that respondent No.3 was thereafter, responsible for the consequences qua the vehicle from the date of agreement and that it was in fact, respondent No.3 who was the owner of the offending vehicle by virtue of agreement dated 25.4.2014.

4. Application under Section 65 of the Evidence Act, 1872 for grant of permission to the appellant to prove photostat copy of agreement dated 25.4.2014 was dismissed by the learned Tribunal vide order dated 9.11.2017, inter alia, on the ground that the appellant had filed an application for release of truck on sapurdari before the court of Ms. Geeta Rani, learned Judicial Magistrate, 1st Class, Nakodar and the Court had ordered the release of the offending vehicle to the appellant being owner on 17.01.2015 whereas the accident in question had taken place on 09.11.2014. When the case was listed for evidence of the respondent on 18.8.2017 application under Section 65 of the Evidence Act, was moved by the appellant for permission to prove

account that as per the attested copy of the agreement, respondent No.3 was to make payment of Rs.3,30,000/- later on and it appeared that the payment was not made by respondent No.3 whereupon the appellant took back the possession of the truck and that if payment of the full amount had been made by respondent No.3 then the said truck would have been transferred by the appellant in the name of respondent No.3.

5. Apart from the above, application was moved by the appellant on 06.1.2015 before the learned Illaqa Magistrate, Nakodar for release of the offending truck on sapurdari and the same was allowed vide order dated 17.01.2015 by holding that the police had no objection to the release of the truck bearing Registration No.PB-07-C-9580 to its registered owner Ravi Kumar i.e. the appellant herein. The appellant had also placed on record photocopy of bill of vehicle in question showing him to be the registered owner of the said vehicle. The Tribunal further took into account that the date of alleged agreement was 25.4.2014 while the accident took place on 09.11.2014 and if the appellant claimed that he had hand over the possession of the offending truck to respondent No.3 on 25.4.2014 and respondent No.3 i.e the driver of the offending truck was not under his employment then it was very strange as to why the appellant had taken the said truck back on sapurdari vide order dated 17.1.2015.

6. In the circumstances, the Tribunal held that the appellant was still the registered owner of the offending truck and the application had been filed just to delay the proceedings of the case. Even if the plea of the appellant is accepted that he had sold the truck in question to respondent No.3, the fact remains that as per the attested copy of the agreement as referred to in paragraph No.4 of the order dated 9.11.2017 on the application under Section 65 of the Evidence Act, respondent No.3 i.e. the driver was to make payment of

Rs.3,30,000/- later on and that payment was not made by respondent No.3 whereupon the appellant took back the possession of the said truck.

7. In the aforementioned background, the Tribunal held that the appellant was the registered owner and that had the payment of full amount been made by respondent No.3 to the appellant then the truck would have been transferred in his name by the appellant.

8. In the light of the position as noted above, I do not find any reason warranting interference with the award as well as the order dated 9.11.2017 passed by the learned MACT, Jalandhar.

9. Dismissed in limine.

December 05, 2018
ps

(B.S. WALIA)
JUDGE

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