

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

122

FAO-4449-2018 (O&M)

Date of Decision : 27.07.2018

Angrej Singh

..... Appellant

Versus

United India Insurance Company and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ajay Pal Singh Rehan, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed by the registered owner against the grant of recovery rights. Since very limited issue has been raised in this appeal the detailed reference to the facts is not required.

Suffice it to say that it was the case of the appellant that he had sold vehicle in question to the respondent No.2 and therefore the Tribunal should have inquired from the respondent No.2 as to who was the driver and merely because the respondent No.2 chose to remain ex-parte, recovery rights could not have been given to the insurance company. It is admitted that the sale was not combined with the transfer of the vehicle in the name of the respondent No.2. It is also admitted that the insurance continued to be in the name of the appellant. It was in these circumstances that the Tribunal foisted the liability upon the appellant in view of the judgment of the Supreme Court in *Naveen Kumar vs. Vijay Kumar and others, 2018(2)*

RCR (Civil) 74.

Counsel for the appellant has argued that the appellant had proved the sale by placing on record the original agreement to sell and the affidavit executed by the respondent No.2.

In my opinion, this would not be a complete answer. The judgment relied upon by the Tribunal clearly states that it is the duty of the owner to ensure that the vehicle is transferred in the name of subsequent buyer and in case that is not done, the original owner can not escape liability. Of course, if the appellant has really sold the vehicle he can always avail his remedy under law against respondent No.2 independently.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

July 27, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No