

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

-.-

FAO 5679 of 2018 (O&M)
Date of decision: 27.09.2018

Pankaj

..... Appellant

Versus

Joginder Kumar and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Arvind, Advocate for
Ms Gunjan Gera, Advocate
for the appellant

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 05.01.2018 passed by the Motor Accidents Claims Tribunal, Karnal (hereinafter to be referred as 'the Tribunal') whereby compensation has been assessed on account of injuries sustained by Joginder Kumar in a motor vehicular accident that took place 18.04.2015.

The insurance company of offending vehicle (motorcycle) bearing registration No. HR 07L-8303 has been held liable to pay compensation to the claimant but the insurer has been given right of recovery against the insured after discharging liability towards the claimant.

The sole submission made by counsel for the appellant is that as the vehicle in question had already been sold by the appellant to Ankush - respondent No. 2 who was in possession of the vehicle and driving the same at the relevant time, liability to pay compensation has wrongly been fastened upon the appellant. It is further argued that the appellant does not

fall within the ambit of Section 2 (30) of the Motor Vehicles Act, 1988 (in short, 'the Act'), defining the expression 'owner' for the purposes of the Act.

Be that as it may, it is undisputed position of the case that the appellant was registered owner of the vehicle on the day of unfortunate occurrence i.e. 18.04.2015. The vehicle was got insured by the appellant with respondent No. 3 - New India Assurance Company Limited. The appellant being the registered owner cannot escape liability to pay compensation, in the light of latest judgment of Hon'ble the Supreme Court ***Naveen Kumar vs Vijay Kumar and others, 2018 (2) SCALE 263*** wherein Hon'ble the Apex Court after taking into consideration its earlier judgments ***HDFC Bank Limited vs Reshma (2015) 3 SCC 679, Purnya Kala Devi vs State of Assam, (2014) 14 SCC 142 and Pushpa alias Leela vs Shakuntala (2011) 2 SCC 240*** and definition of 'owner' under Section 2 (30) of the Act has held that as registered owner fall within the definition of expression 'owner' in Section 2 (30) of the Act, he/she cannot escape his/her liability to pay compensation by raising a plea that the vehicle had already been sold. That being so, the appellant cannot escape liability to pay compensation. As there is no privity of contract between the driver and insurer of the vehicle, the Tribunal has rightly given right of recovery only against the appellant and not against driver of the vehicle in question. In this view of the matter, I do not find an error much less illegality in the award, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*.

As the appeal has been decided on merits, application for

condonation of delay is of academic relevance only. However, it is made clear that the appellant may avail appropriate remedy in law against respondent No. 2-Ankush.

(Rekha Mittal)
Judge

27.09.2018
mohan bimbra

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