

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-20194-95 & 20197-CII-2018 in/and
FAO No.5846 of 2018 (O&M)
Date of Decision : 18.09.2018

Harjinder Singh

..... Appellant

Versus

Smt. Kanwaljit Kaur and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Prateek Sodhi, Advocate
for applicant-appellant.

AJAY TEWARI, J. (ORAL)

CM-20194-95-CII-2018

For the reasons recorded, the applications are allowed. Delay of 1030 days in filing the appeal is condoned.

CM-20197-CII-2018

This is an application under Order 41 Rule 27 CPC for additional evidence.

Since the documents have no relevance in the present case, the application stands dismissed.

FAO-5846-2018 (O&M)

This appeal has been filed against the award dated 06.08.2015 passed by the Motor Accident Claims Tribunal, Amritsar granting compensation of Rs.21,69,000/- alongwith interest @ 6% p.a. to the claimants on account of death of Daljit Singh.

Brief facts of the case are that Daljit Singh had died on

12.10.2014 in a roadside accident which took place on 10.10.2014 at 6.00 p.m. in the area of Adda Village Jhande, due to rash and negligent driving of respondent No.6 Gurwinder Singh (vehicle owned by the appellant).

The case of the appellant was that in fact he had sold the vehicle to the respondent No.6-Gurwinder Singh much prior to the date of the accident. The case of the respondent No.6 was that in fact no accident had taken place with the vehicle (though he admitted that he had purchased the vehicle in question from the appellant). The Tribunal held that the accident was duly proved by the cross-examination of eye witness Ranjit Singh. The Tribunal further held that the appellant and respondent No.6 were real brothers and the transfer in favour of respondent No.6 was a clumsy attempt by the appellant to evade the liability.

Counsel for the appellant is not in a position to deny that now the Supreme Court in *Naveen Kumar vs. Vijay Kumar and others, 2018(2) RCRT (Civil) 74* has categorically laid down that the registered owner of a vehicle can not escape by his liability merely by pleading that the vehicle was sold till the time change in ownership is not reflected in the record of the transport authority. Resultantly, the appellant cannot be absolved from the liability.

Counsel for the appellant has further argued that the Tribunal did not give due regard to the fact that the mobile tower location of respondent No.6 was not shown at the place of the accident at the relevant time.

In my considered opinion, the evidentiary value of the tower location of the phone vis-a-vis that of eye witness is always less and the testimony of the eye witness who has been tested by the cross-examination

has to be given more probative value.

Appeal is dismissed. No costs.

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

September 18, 2018

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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No