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

**FAO No.1268 of 2008 (O&M)
Date of Decision : 03.05.2019**

Sandeep Arora

Appellant

Versus

Usha and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. B.S. Jaswal, Advocate
for the appellant.

Mr. Ishan Cooner, Advocate
for respondents No.1 to 5.

Mr. Harjinder Singh, Advocate
for respondent No.7.

AVNEESH JHINGAN, J (Oral)

The award dated 30.01.2008 passed by the Motor Accident Claims Tribunal, Amritsar [for brevity 'the Tribunal'] has been assailed by registered owner of Bajaj Chetak Scooter bearing registration No. PB-02D-0944 [hereinafter referred to as 'offending vehicle'].

The factum of accident has not been disputed by the parties. A motor vehicular accident took place on 04.09.2005.

The vehicles involved in the accident were motorcycle bearing

registration No. PB-02AE-7232 [hereinafter referred to as 'motorcycle'] and the offending vehicle. The accident proved fatal for Sukhwinder Masih @ Sukha i.e. rider of the motorcycle. FIR No. 228 of 2005 was registered.

A claim petition was filed by widow, three minor children and mother of the deceased under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act']. In the claim proceedings, involvement of offending vehicle was established. The Tribunal awarded compensation of ₹4,08,000/- alongwith interest @ 8% per annum. The Tribunal found that motorcycle was not insured at the time of accident and as such the insurer of the offending vehicle was absolved from the liability to pay the compensation. The owner of motorcycle, driver of offending vehicle and owner of the offending vehicle were held jointly and severally liable to pay the compensation. Being aggrieved of liability to pay compensation, the registered owner of offending vehicle has filed the present appeal. The issue raised is that he had already sold the offending vehicle before the date of accident, hence not liable to pay compensation.

Heard learned counsel for the parties, perused the record.

The contention raised by learned counsel for the appellant lacks merit. The Supreme Court in case of **Naveen Kumar vs. Vijay Kumar and others, (2018) 3 SCC 1** has held that for purpose of Motor Vehicles Act, 1988, the person in

whose name the motor vehicle stands registered would be treated as an owner for the purpose of this Act. The relevant portion of the judgment is quoted below:-

“12. The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression ‘owner’ in Section 2 (30), it is the person in whose name the motor vehicle stands registered who, for the purposes of the Act, would be treated as the ‘owner’. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability. Parliament has consciously introduced the definition of the expression ‘owner’ in Section 2(30) making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the ‘owner’ of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a

*misconstruction of the judgments of this Court in **Reshma and Purnya Kala Devi.**”*

Further, the Supreme Court in **Prakash Chand Daga Vs. Saveta Sharma and others 2019(1) RCR (Civil) 372** has held as under:

“Even though in law there would be a transfer of ownership of the vehicle, that, by itself, would not absolve the party, in whose name the vehicle stands in RTO records, from liability to a third person Merely because the vehicle was transferred does not mean that such registered owner stands absolved of his liability to a third person. So long as his name continues in RTO records, he remains liable to a third person.”

There is no challenge to the fact that appellant was registered owner at the time of accident.

In view of above decisions of the Supreme Court, the appeal, being without merits, is dismissed.

Needless to add that the appellant can pursue his remedies in accordance with law against subsequent purchaser, if so advised.

[AVNEESH JHINGAN]
JUDGE

May 03, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |