

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

FAO-555-2007(O&M)

Date of decision:-27.8.2019

M/s Haryana Mineral Ltd., Narnaul

...Appellant

Versus

Sushila Devi and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Mukul Aggarwal, Advocate
for the appellant.

Mr.Sandeep Verma, Advocate
for respondent No.2.

Ms.Vandana Malhotra, Advocate
for respondent No.6.

H.S. MADAAN, J.

**CM-2778-CII-2007 &
CM-2779-CII-2007**

CM-2778-CII-2007 has been filed under Section 151 of the Code of Civil Procedure for condonation of delay of 227 days in refiling of the appeal whereas CM-2779-CII-2007 has been filed under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure for condonation of delay of 261 days in filing of the appeal.

Heard.

Though, the applications are being opposed on behalf of the respondents but I find sufficient grounds to condone the delays since it is always desirable to decide a *lis* on merits rather than non suiting a party on a technical ground.

Therefore, the applications are allowed and delay of 227 days in refiling of the appeal and delay of 261 days in filing of the appeal stand condoned.

FAO-555-2007(O&M)

Briefly stated, facts of the case are that on 19.1.2000 several persons including Ram Niwas and Partap Singh had boarded a jeep bearing registration No.HR27-2797 from Kanina for going to Rewari; some more persons had boarded the jeep at Dahina bus stand; the jeep was being driven by respondent No.1 - Om Parkash in a very rash and negligent manner not paying any heed to the repeated requests of the passengers to drive it in a careful manner at a slow speed; when the jeep had just crossed bus stand of village Budoli and was going towards Rewari then another jeep having registration No.HRM-2697 was spotted coming from Rewari side; it was also being driven in a rash and negligent manner by its driver Harveer – respondent No.3; resultantly both the jeeps were involved in a head on collision, as a result of which jeep No.HR27-2797 turned turtle; that Ram Niwas suffered multiple and grievous injuries to which he succumbed at the spot; Partap Singh had also suffered injuries in the mishap.

Smt.Sushila Devi – widow of Ram Niwas deceased had

brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Om Parkash – registered owner and driver and United India Insurance Company Ltd. Rewari – insurer of jeep No.HR-27/2797 as well as Harveer – driver, M/s Haryana Mineral Ltd., Narnaul, Tehsil Narnaul, District Mohindergarh, Sardar Singh, resident of VPO Jharsa, Gurgaon and insurance company of jeep bearing registration No.HRM-2697 without giving its particulars, claiming compensation to the tune of Rs.12 lacs along with interest on account of death of her husband in the accident.

Partap Singh had also filed a separate claim petition against those very respondents, claiming compensation to the tune of Rs.1,50,000/- along with interest on account of injuries suffered by him in the accident.

Both the claim petitions were consolidated and tried together by Motor Accidents Claims Tribunal, Rewari.

Notices of the claim petitions were given to the respondents. Respondents No.1 to 5 had put in appearance and filed separate written statements in both the petitions. In the written statements filed on behalf of respondent No.1, he had challenged the maintainability of the said petitions, locus standi of the claimants to bring the same alleging that the petitions were bad for mis-joinder of parties and the accident had taken place due to rash and negligent driving of jeep bearing registration No.HRM-2697 and that the answering respondent was driving his jeep very safely.

In the written statements submitted on behalf of respondent

No.2 – insurance company, it had taken up pleas that respondent No.1 was not holding a valid and effective driving licence and that respondent No.1 had caused the accident by driving his jeep in a rash and negligent manner.

In the written statements submitted on behalf of respondent No.3, he had also challenged the locus standi of the claimants to bring the claim petitions contending that such petitions filed by them were not maintainable and that he had no connection with the jeep bearing registration No.HRM-2697 and that the accident had taken place due to rash and negligent driving of jeep No.HR27-2797 by respondent No.1.

In the written statements submitted on behalf of respondent No.4, he had also taken several legal objections and on merit contending that he had sold the jeep bearing registration No.HRM-2697 to Sh.Sardar Singh Thakran in the year 1995 for a sale consideration of Rs.99,110/- vide bill No.6078 dated 12.10.1995 handing over the possession of the jeep as well as all other necessary documents to the purchaser at that time and he was not left with any interest in the jeep.

Respondent No.5 in the written statements filed by him had contended that respondent No.4 was registered owner of jeep bearing registration No.HRM-2697 and he had purchased the same from respondent No.4 on his assurance to comply with all necessary formalities for transfer of vehicle in his name but respondent No.4 failed to do the needful and thereafter he had sold the abovesaid jeep to respondent No.3, who agreed for completion of formalities on the part of respondent No.5 regarding the transfer of ownership of this vehicle in his favour on receipt

of all the requisite documents from respondent No.4.

All the respondents prayed for dismissal of the claim petitions.

In the replications to the written statements of respondent No.1 to 5 in both the claim petitions, the petitioners/claimants controverted the assertions therein and reiterated their versions as given in their respective claim petitions.

Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing arguments, the claim petitions were allowed by the Tribunal vide award dated 12.8.2005. Petitioner Smt.Sushila, who had filed MACT Case No.49 of 2001 was awarded compensation of Rs.2,52,800/- and petitioner Partap Singh, who had filed MACT Case No.61 of 2001 was awarded compensation of Rs.8,000/- along with interest at the rate of 6% per annum from the date of filing of the petitions till final realization payable by respondents No.3 and 4 jointly and severally, whereas respondents No.1, 2 and 5 were exonerated.

This award left respondent No.4 – M/s Haryana Mineral Ltd., Narnaul aggrieved and it has approached this Court by filing the present appeal.

Notice of the appeal was given to the respondents and respondents No.2 and 6 have appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the appellant has contended that since

jeep bearing registration No.HRM-2697 had been sold by the appellant to Sardar Singh (respondent No.5) vide bill dated 12.10.1995 and all the necessary documents were handed over to said respondent for transfer of the jeep in his name at the time of sale, therefore, on the date of accident i.e. 19.1.2000, the appellant had no concern with the jeep, therefore, could not be burdened with any liability to pay compensation; that even respondent No.5 in para No.16 of the written statement has admitted this fact, therefore, the Tribunal wrongly held the appellant liable to pay compensation. According to appellant, on the day of accident, it was neither the owner nor in possession of the jeep in question and the same was being owned and possessed by respondent No.5.

These contentions are being controverted by learned counsel for the respondents.

After giving a careful thought to the submissions made by learned counsel for the parties and going through the record, I find that such submissions put forward on behalf of learned counsel for the appellant are devoid of any merit and deserve to be rejected. Learned Tribunal has dealt in detail with such objection raised before it carefully keeping in view the legal as well as factual position, ultimately not finding any force therein. The Tribunal in para No.23 of the Award referring to the testimony of PW4 Dharmender Singh, Registration Clerk, Office of SDO(c), Narnaul, who had proved attested copies of registration certificate Ex.PW4/A showing M/s Haryana Mineeral Ltd. - respondent No.4 in the claim petition to be registered owner of the vehicle having registration No.HRM-2697, had observed that there was no evidence on

the file to show that above-said vehicle had ever been transferred in the name of subsequent vendees i.e. respondents No.5 and 3, respectively in the relevant record, meaning thereby, that respondent No.4 M/s Haryana Mineral Ltd. continues to be recorded as registered owner of the vehicle in the relevant record. The Tribunal has referred to the plea taken by respondent No.5 in para No.16 of the written statement, though admitting that he had purchased the vehicle from respondent No.4 in an auction but at the same time asserting that respondent No.4 had not handed over requisite papers for transfer of vehicle in his own name and that he had further sold the said vehicle to respondent No.3. The Tribunal has observed that respondent No.4 continued to be registered owner of the jeep and respondent No.3 was in actual possession thereof, in that way both of them were liable to pay compensation. Respondents No.1 and 2 were absolved of liability to pay compensation in view of the findings return on issue No.1 to the effect that it was respondent No.3, who had caused the accident in question by driving jeep No.HRM-2697 in a rash and negligent manner. Even otherwise, the Apex Court in **Naveen Kumar Versus Vijay Kumar and Ors., 2018(2) RCR(Civil)74** while dealing with liability of owner in a claim petition had observed that where registered owner purported to transfer vehicle but continues to be reflected in records of registering authority as owner, he would not stand absolved of liability since the principle underlying provisions is that victim of motor accident is not to be left in state of uncertainty and the claimant for compensation ought not to be burdened with following trail of successive transfers, which are not registered with registering authority. For ready

reference, relevant paras No.12 and 13 of the judgment are being reproduced as under:

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.

13. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In Dr. T V Jose, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled.

I do not find any illegality of infirmity in the award passed by the Tribunal. Rather the same is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein.

There is no merit in the appeal and the same is dismissed accordingly.

27.8.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No