

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

FAO No. 2606 of 2015 (O&M)

Date of decision:- 21.02.2019

Birender Singh

---Appellant.

Versus

Smt. Roshni and Others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. M. S. Yadav, Advocate
for the appellant.

Mr. Amit Chaudhary, Advocate
for respondent Nos. 1 to 4.

AVNEESH JHINGAN J. (Oral)

The award dated 26.04.2014 passed by Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal') has been assailed by Birender Singh, Registered owner of Tata Safari bearing registration No. HR-30E-2060 (hereinafter referred to as 'offending vehicle').

The brief facts of the case are that a motor vehicular accident took place on 11.04.2012. The accident was caused due to the rash and the negligent driving of the offending vehicle. The accident proved fatal for Gaurav whereas Ranjeet sustained injuries. FIR No. 149 dated 12/04/2012 was registered at Police Station Palwal.

A claim petition was filed by the parents and two siblings of the deceased under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal awarded a sum of Rs. 5 lakhs along with interest @7% per annum.

During the proceedings before the Tribunal the registered owner,

took a stand that the said vehicle was sold to Bir Singh i.e. Respondent No.1 before the Tribunal. The Tribunal after considering the facts and appreciating the evidence adduced held that Birender Singh and Bir Singh were **jointly and severally liable** to pay compensation.

The grievance raised in the present appeal is that the offending vehicle was sold by the appellant prior to the date of the accident and was no longer in his control and possession and the Tribunal erred in holding him liable to pay the compensation.

The issue raised in the present appeal is no longer *res-integra*. The Supreme Court in case of ***Naveen Kumar vs. Vijay Kumar and others, 2018(3) SCC 1*** has held that for purpose of the Act, the person in whose name the motor vehicle stands registered would be treated as the owner. 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:

9. The law is thus well settled and can be summarised:-

“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.”

It has been held that as long as the seller continues to be the owner in record of the registering authority, he shall be liable to pay compensation under the Act.

In view of settled proposition of law, the present appeal is dismissed.

21.02.2019
Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No