

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 1690 of 2016 (O&M)

Date of Decision: 09.01.2019

Harjinder Kaur

.....Appellant

Versus

Amarjit Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Harkeerat Singh, Advocate
for the appellant.

Mr. Vipin Mahajan, Advocate
for respondents No. 1 and 2.

Mr. Rahul Rampal, Advocate
for respondent No.4.

AVNEESH JHINGAN, J.(oral)

The award dated 6.8.2013 passed by the Motor Accidents Claims Tribunal, Gurdaspur, (for short 'the Tribunal') has been assailed by the legal heir of the registered owner of the vehicle, being aggrieved of lability to pay compensation.

The facts in brief necessary for adjudication of the present appeal are that on 19.8.2010 Harmolak Singh was going to Government Senior Secondary School, Dostpur, Tehsil and District Gurdaspur, on a motor cycle bearing registration No.PB-18-N-3119. He was being followed by his cousin on a separate motor cycle. When he reached little ahead of village Shahur Kalan, the motor cycle was hit by a rashly and negligently driven jeep bearing registration No. PJO-388 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, Harmolak Singh sustained grievous injuries. He was taken to Civil Hospital, Gurdaspur, where he succumbed to injuries. FIR was registered at Police Station Kalanaur.

A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short 'the Act') was filed by the legal heirs of the deceased.

The Tribunal after considering the facts and on appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The driver and registered owner (appellant) were held jointly and severally liable to pay compensation. The Tribunal awarded a sum of Rs.3,29,000/- as compensation to the claimants.

In the proceedings before the Tribunal, the registered owner (appellant) took a stand that the offending vehicle was sold by him in the year 2007 to Talwinder Singh. Hence, he is not liable to pay any compensation.

Heard learned counsel for the parties and perused the relevant documents produced by them.

Learned counsel for the appellant contends that the Tribunal erred in holding that the appellant is liable to pay compensation as the appellant had already sold the offending vehicle in the year 2007 to Talwinder Singh.

Learned counsel appearing for respondent No.4 supported the contention raised by learned counsel for the appellant.

Learned counsel for respondents No. 1 and 2 i.e. claimants defended the award. He argued that the appellant was the registered owner in the record of the Registering Authority on the date of accident, the Tribunal rightly held him liable to pay compensation.

The contention raised by learned counsel for the appellant lacks merit.

Learned counsel for the appellant even during the course of arguments was not in a position to dispute the fact that Jaspal Singh was the registered owner on the date of accident. The issue that even if the vehicle is

sold but the seller continues to be the registered owner shall be liable to pay the compensation under the Act 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 the purpose of Motor Vehicles Act, 1988, the person in whose name the motorcycle vehicle stands registered would be treated as an 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 reiterated this fact in **Prakash Chand Daga Vs. Saveta Sharma and others 2019(1) RCR (Civil) 372** and 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."*

In view of the authoritative decisions of the Supreme Court, the contention raised by learned counsel for the appellant deserve rejection.

There is another aspect that though a written statement was filed taking the plea that the offending vehicle was sold to Talwinder Singh but the said fact was never substantiated before the Tribunal by adducing any evidence.

The appeal is accordingly dismissed.

09.01.2019
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(AVNEESH JHINGAN)
JUDGE