

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1.

FAO No.9432 of 2014 (O&M)

Date of Decision: 20.03.2019

Gurdarshan Singh

Appellant

Versus

Gora Jain and others

Respondents

2.

FAO No.9433 of 2014 (O&M)

Gurdarshan Singh

Appellant

Versus

Lalita Jain and others

Respondents

3.

FAO No.9434 of 2014 (O&M)

Gurdarshan Singh

Appellant

Versus

Lalita Jain and others

Respondents

4.

FAO No.9435 of 2014 (O&M)

Gurdarshan Singh

Appellant

Versus

Manik Jain and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sidharth Gupta, Advocate
for the appellant.

Mr. Anand Kumar Bishnoi, Advocate
for respondent No.1
[in FAO Nos.9432, 9433 and 9435 of 2014]

Mr. Anupam Singla, Advocate
for respondents No.2 & 7
[in FAO Nos.9432, 9434 and 9435 of 2014]
for respondents No.3 & 8
[in FAO Nos.9433 of 2014].

Mr. Banni Thomas, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The registered owner of car bearing registration No. DL-6C-1147 [hereinafter referred to as 'offending vehicle'] has assailed the award dated 08.12.2010 by filing four separate appeals, being aggrieved of the findings recorded by the Motor Accident Claims Tribunal, Bathinda [for brevity 'the Tribunal'] to the effect that owner (appellant) and driver are liable to pay the compensation to the claimants. An application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 has been filed in FAO No.9432 of 2014 for leading additional evidence i.e. copy of F.I.R. dated 16.03.2018, registered against Darshan Singh (respondent No.7).

The grievance raised in all the appeals filed by the registered owner is that the offending vehicle was sold to Darshan Singh much prior to the date of accident i.e. on

23.09.2005.

The facts with regard to accident are not in dispute between the parties. There is no challenge to the fact that the appellant (i.e. respondent No.2 before the Tribunal) was the registered owner on the date of accident.

The issue raised has been settled by the Supreme Court in case of **Naveen Kumar vs. Vijay Kumar and others, (2018) 3 SCC 1**. It has been held that for the purpose of Motor Vehicles Act, 1988 [for brevity '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 so long the seller continues to be owner in record of registering authority, he shall be liable to pay compensation under the Act.

In view of law laid down by the Supreme Court, no interference is called for in the findings recorded by the Tribunal holding that driver and registered owner of the offending vehicle are liable to pay the compensation to the claimants.

It is, however, clarified that the registered owner and the alleged subsequent purchaser are at liberty to avail their remedies as may be available to them in accordance with law so far as their *inter se* dispute is concerned.

The appeals are dismissed, accordingly.

[AVNEESH JHINGAN]
JUDGE

March 20, 2019

pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes