

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 32 of 2017 (O&M)
DECIDED ON: JANUARY 17, 2019

DARBARA SINGH

.....APPELLANT

VERSUS

DARA SINGH & ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sahil Goel, Advocate for
Mr. Saurabh Arora, Advocate
for the appellant.

Mr. Kanwal Jeet Singh Brar, Advocate
for respondent No.1.

Mr. Vivek Goel, Advocate
for respondent No.2.

AVNEESH JHINGAN, J.(oral)

The award dated 26.05.2016 passed by the Motor Accidents Claims Tribunal, Faridkot, (for short 'the Tribunal') has been assailed by the driver of tractor bearing registration No. PCH-6381 (hereinafter referred to as 'offending vehicle').

The claimant and the registered owner of the offending vehicle have been arrayed as respondents No.1 and 2 respectively in the appeal.

The facts in brief necessary for adjudication of the present appeal are that on 07.12.2014, Dara Singh (claimant) alongwith his nephew was going on motorcycle bearing registration No. PB-30-J-6620. On the way the motorcycle was hit by a rashly and negligently driven offending vehicle,

which was being driven by the appellant. As a result of the impact, Dara Singh suffered grievous injuries. FIR No. 192, dated 10.12.2014 was registered at Police Station Kulgari.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the claimant.

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 appellant being driver and subsequent purchaser of the offending vehicle was held liable to pay the compensation and the registered owner of the offending vehicle was absolved from the liability to pay the compensation. The Tribunal awarded compensation of ₹5,91,000/- alongwith interest @6% per annum.

The grievance raised is that Kulbir Singh (respondent No.2) was the registered owner of the offending vehicle at the time of accident and has been wrongly absolved from the liability to pay the compensation.

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

Learned counsel for the appellant argues that it was proved before the Tribunal that Kulbir Singh was the registered owner of the offending vehicle at the time of accident, yet only the appellant has been held liable to pay the compensation.

Learned counsel for respondent No.2 contends that it was duly proved before the Tribunal that the offending vehicle was sold on 01.12.2014 i.e. prior to the date of accident and he was not in the possession of the offending vehicle. Further appellant took the offending vehicle on 'sapurdari'

in the criminal proceedings, hence, no liability can be fastened upon

respondent No.2.

There is no dispute between the parties that on the date of accident respondent No.2 was the registered owner of the offending vehicle in the records of Registering Authority.

The issue with regard to the liability to pay the compensation is on the registered owner 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."*

It is held that in spite of sale of vehicle the person shown owner in RTO record shall continue to be liable to pay compensation under the Act as he continues to be owner for the purpose of the Act. The findings recorded by the Tribunal absolving respondent No.2 from the liability to pay compensation cannot be sustained.

The award dated 26.05.2016 is modified to the extent that the

appellant and Kulbir Singh (respondent No.2) in the present appeal are jointly and severally liable to pay the compensation to the claimants.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

JANUARY 17, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No