

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

Date of Decision: September 24, 2019

1.

FAO-2476-2018 (O&M)

Ashok Kumar

Appellant

Versus

Prithpal Singh and others

Respondents
2.

FAO-2481-2018 (O&M)

Ashok Kumar

Appellant

Versus

Jaswinder Singh and others

Respondents
3.

FAO-2482-2018 (O&M)

Ashok Kumar

Appellant

Versus

Jaswinder Kaur and others

Respondents
4.

FAO-2483-2018 (O&M)

Ashok Kumar

Appellant

Versus

Jaskaran Singh and others

Respondents
5.

FAO-2636-2018 (O&M)

Ashok Kumar

FAO-2476-2018 (O&M)		-2-
		Appellant
Versus		
Sarabjit Singh and others		
		Respondents
6.	FAO-2637-2018 (O&M)	
Ashok Kumar		
		Appellant
Versus		
Harjit Singh and others		
		Respondents
7.	FAO-2638-2018 (O&M)	
Ashok Kumar		
		Appellant
Versus		
Surjit Singh and others		
		Respondents
8.	FAO-2647-2018 (O&M)	
Ashok Kumar		
		Appellant
Versus		
Major Singh and others		
		Respondents
9.	FAO-2648-2018 (O&M)	
Ashok Kumar		
		Appellant
Versus		
Manjit Kaur and others		
		Respondents
10.	FAO-2707-2018 (O&M)	
Ashok Kumar		
		Appellant

FAO-2476-2018 (O&M)

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Versus

Sukhdeep Singh and others

Respondents

11. **FAO-2712-2018 (O&M)**

Ashok Kumar

Appellant

Versus

Karnail Singh and others

Respondents

12. **FAO-2721-2018 (O&M)**

Ashok Kumar

Appellant

Versus

Harjinder Singh and others

Respondents

13. **FAO-2995-2018 (O&M)**

Ashok Kumar

Appellant

Versus

Amrik Singh and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Namit Gautam, Advocate
for the appellant.

JAISHREE THAKUR, J. (Oral)

CM-9249-CII-2018

For the reasons mentioned in the application, the same is

allowed and the delay of 197 days in filing of the appeal is hereby condoned.

Main case

By this common order, this Court proposes to dispose off all the above captioned appeals which arise out of the common award passed by MACT, Jalandhar dated 09.03.2017 as the question of law involve in these appeal is common.

For brevity, the facts are being extracted from FAO-2476-2018.

In brief, the facts are that on account of an accident which took place on 04.03.2013 between a bus, in which minor children who were going to school were traveling to study at Akal Academy, Boparai Kalan, Tehsil Nakodar, District Jalandhar, and a tempo-traveler bearing registration number PB-01-4363, being driven by Boota Singh(alias Vishal) since deceased, all children died.

In the claim petition, it was alleged that the accident occurred due to the rash and negligent driving of the driver of tempo-traveler. An FIR was registered bearing No. 50 dated 04.03.2013 under Section 304 and 307 IPC at Police Station Nakodar against the respondents.

Upon notice, the appellant-the registered owner of the vehicle bearing registration No. PB-01-4363 put in an appearance and averred that he had in fact sold the vehicle along with the route-permit on 25.03.2003 to Jasbir Singh, S/o Mohinder Singh for a consideration of ₹3,75,000/- and therefore, he was not the owner of the vehicle on the date the accident took place. The tribunal framed issues and the parties adduced evidence. The appellant herein contested the claim petition primarily on the ground that he was not the owner of the said vehicle on the relevant date and therefore,

could not be liable for any compensation that would be assessed. In fact after the said tempo-traveler had been sold to Jasbir Singh Laddi and it was further sold to one Harinder Pal Singh S/o Davinder Pal Singh, who further sold it to Vishal S/o Prakash. However, it was being used by Harinder Pal Singh for carrying the students of Akal Academy.

The Tribunal based on the evidence adduced came to hold that Harinder Pal Singh was the owner of tempo-traveler in question at the time of the accident, however, since the appellant Ashok Kumar was the registered owner at the relevant time and as such the compensation awarded to the claimants was to be paid by him. Aggrieved of the same, the instant appeal has been filed.

Learned counsel for the appellant argues that the Tribunal has erred in fastening the responsibility upon him, whereas he was not the owner on the relevant date, having sold the said vehicle to Jasbir Singh Laddi, who sold it further. It is argued that there is enough evidence available on the record to substantiate this fact.

I have heard learned counsel for the appellant, who assails the liability that has been fastened upon him. It is his contention that he was not the owner of the offending vehicle on the date the accident took place having sold it to Jasbir Singh Ladi, who in turn sold it further. It is argued that he was not in control and possession of the vehicle on the said date and therefore, would be absolved of any such liability or compensation.

The Apex Court in a judgment rendered in '**Naveen Kumar vs. Vijay Kumar and others 2018(2) RCR(Civil) 74**' has clearly held that a claim for compensation would be maintainable against the registered owner of the vehicle and for the purpose of Motor Vehicles Act any person whose

name is reflected in the records of the Registration Authority is the owner. The rationale behind fastening the liability on the registered owner is to save the claimants from the burden of following the trail of successive transfers which transfers are not registered with the RTO. Para 12 and 13 of the said judgment are re-produced 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.

Consequently applying the ratio of the aforesaid judgment to the facts of this appeal case, no ground is made out to interfere.

All the appeals are accordingly dismissed.

September 24, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No