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

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**FAO No.6964 of 2018 (O&M)
Date of Decision: 30.05.2019**

Vikas Kumar Gupta

Appellant

Versus

Anita Devi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Promila Nain, Advocate
for the appellant.

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AVNEESH JHINGAN, J (Oral):

The award dated 15.02.2018 passed by the Motor Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has been assailed by the owner of vehicle bearing registration No. PB-10ES-1767 [hereinafter referred to as 'offending vehicle']. The challenge in the appeal is with regard to liability fixed of owner and driver of the offending vehicle to pay compensation to the claimants.

The facts necessary for adjudication of present appeal are that on 25.07.2015, Ram Ji alongwith his son Akash Kumar was going to New Sabzi Mandi on Scooter bearing registration No. PB-10BN-3116, on the way the Scooter was hit by the offending vehicle. As a result of the impact, Ram Ji suffered injuries which proved fatal. FIR No.264, dated 25.07.2015 was registered at Police Station Basti Jodhewal, Ludhiana.

In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] by legal representatives of Ram Ji, the Tribunal after considering the facts and appreciating the evidence adduced held that the accident was result of rash and negligent driving of the offending vehicle. The income of the deceased was assessed as ₹6,000/- per month; 1/3rd deduction for self-expenses was made and multiplier of '14' was applied considering the deceased in age group of 41-45. The Tribunal awarded total sum of ₹9,94,000/- alongwith interest @ 7.5% per annum as compensation. The amount awarded included ₹15,000/- each for funeral expenses & loss of estate. ₹40,000/- were awarded for loss of consortium and ₹2,52,000/- for future prospects.

The offending vehicle was owned by Vikas Kumar Gupta (appellant) and the same was financed from Shri Ram Transport Company Limited. On the date of accident, the offending vehicle was not insured, the owner and driver of offending vehicle were held liable to pay the compensation.

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

The only issue raised by learned counsel for the appellant is that the offending vehicle was financed and it was duty of the Financer to get the same insured. She further stated that liability to pay compensation should be affixed of the Financer.

The contention raised is not well founded.

Firstly, there is no challenge to the fact that the offending vehicle was not insured on the date of accident. Secondly, that the appellant is registered owner of the offending vehicle. The claimants cannot be made to run from pillar to post for recovery of compensation. The person who continues to be registered owner in the records of R.T.O., cannot be exonerated from his liability to pay the compensation.

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 an owner for the purpose of this Act. 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."***

The argument that it was duty of the Financer to get the offending vehicle insured, does not enhance case of the appellant as far as proceedings under the Act are concerned. Needless to add that if there is *inter se* dispute between the Financer and the appellant, the same can be raised in appropriate proceedings, if so advised.

No shadow can be cast upon the findings recorded by the Tribunal with regard to liability to pay compensation.

The appeal, being without merits, is dismissed.

[AVNEESH JHINGAN]
JUDGE

May 30, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes