

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6006 of 2018

Date of decision:11.2.2019

Virender Kumar

.. Appellant

v.

Vakil and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Gurdeep Kaur, Advocate for the appellant.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 26.4.2018 passed by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') has been assailed by the registered owner of motorcycle bearing registration No. HR-12M-5192 (hereinafter described as 'the offending vehicle').

The brief facts of the case are that a motor vehicular accident took place on 25.10.2015. The accident was caused as a result of rash and negligent driving of the offending vehicle. The accident proved fatal for Sahil, aged 7 years.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the Tribunal awarded a sum of 3,90,000/- along with interest @ 7.5% per annum. The registered owner and driver of the offending vehicle were held jointly and severally liable to pay the compensation.

During the proceedings before the Tribunal, the appellant took

a stand that the offending vehicle was sold to one Chand in the year 2009, who further sold the vehicle to respondent No. 1. The Tribunal considering the fact that the appellant continues to be the registered owner of the offending vehicle held him also liable to pay the compensation.

The grievance raised in the present appeal is that the offending vehicle was already sold by the appellant and was no longer in his control and possession and the Tribunal erred in holding him liable to pay the compensation.

The issue raised in the present appeal 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 purpose of 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 settled proposition of law, the present appeal is dismissed. Consequently, the application for condonation of delay is also dismissed.

(AVNEESH JHINGAN)
JUDGE

11.2.2019
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No