

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1368 of 2020 (O&M)

Date of Decision: 18.2.2020

Kuldeep Singh

...Appellant

Vs.

Bimla and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Amardeep Singh Gill, Advocate
for the appellant.

RAJIV NARAIN RAINA, J. (Oral)

CM No. 3918-CII-2020

1. For the reasons mentioned in the application, duly supported by an affidavit, delay of 30 days in filing the appeal is condoned.

2. CM stands disposed of.

FAO No. 1368 of 2020

1. On the date of the accident, the vehicle stood in the name of the appellant and there is no getting out of this fact. The appellant has to contend with this grim situation. Learned counsel for the appellant says that the appellant had sold the vehicle to one Surinder Singh-respondent No.3 in the claim application on 27.5.2010 but all that he had by way of evidence of the transaction was an affidavit (Mark 'A') presented on the file of the Motor Accident Claims Tribunal, SBS Nagar, Punjab.

2. After the accident resulting in death and claim for

compensation, an FIR was registered against the driver for rash and negligent driving. The police recovered the vehicle, the registration certificate and the driving licence from Surinder Singh but the registration certificate was found in the name of the appellant. Accordingly, the appellant argued before the Tribunal that he was not in possession of the vehicle right from the inception of the case as he had sold the offending vehicle to Surinder Singh on 27.5.2010 and therefore he was not liable. This means that appellant had at no time from 27.5.2010 to 9.4.2017 made any effort to get the registration papers of the vehicle transferred from his name to the name of the alleged buyer i.e. Surinder Singh.

3. Because the offending vehicle was not insured at the time of accident, the liability fell on the both the owner and the driver for all intents and purposes. Kuldeep Singh, the owner on whom the liability has fallen to pay the awarded compensation is the appellant in this appeal.

4. To the mind of this Court, it matters little whether appellant was driving the vehicle or anyone else was, including Surinder Singh as both cannot resist the liability to pay the compensation jointly for causing death in a motor accident. The offending vehicle was not insured. The only evidence that appellant had in hand to disclaim ownership was an affidavit dated 27.5.2010 deposing to sale which is Mark 'A' on the file of the Tribunal and on which document he placed

reliance to shed liability. However, the procedure and necessity for registration of vehicle is laid down in the Motor Vehicles Act, 1988 and that procedure was not followed. Sale was not proved.

5. Therefore, the vehicle would be deemed to be in the ownership of the appellant till and on the date of accident. I would thus find no valid reason to interfere with the impugned award of the Tribunal returning proper findings of fact on ownership and lack of an insurance policy exposing the appellant to risk.

6. The petition being devoid of merit is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

18.2.2020
kv

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable</i> :	<i>Yes/No</i>