

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

FAO-2438-2013 (O&M)
Date of Decision: October 18, 2022

Devender

...Appellant

VERSUS

Sunil and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Madan Pal, Advocate
for the appellant.

None for respondents No.1 to 4.

Mr.Vinod Pundir, Advocate for
Mr.Satbir Rathore, Advocate
for respondents No.5 to 9.

ARCHANA PURI, J.

Challenge in the present appeal is to the Award dated
06.12.2012 passed by learned Motor Accident Claims Tribunal.

The material facts, as unfolded from the paperbook, are as
follows:-

That initially, respondents No.5 to 9 (claimants) filed a claim
petition for seeking compensation, on account of death of Ram Kumar, in a
motor vehicular accident, which took place, on account of rash and
negligent driving of jeep bearing registration No.HR-10B-2876, driven by
respondent No.1 Sunil. In the claim petition, present appellant was
impleaded as respondent No.2B. Even, respondents No.2 to 4, were

impleaded in the capacity of being owner of the jeep bearing registration No.HR-10B-2876, at one time or the other.

After replies were filed by the contesting respondents, issues were framed and thereupon, evidence was adduced and after hearing the arguments, vide impugned Award dated 06.12.2012, compensation to the extent of Rs.5,81,600/- was granted to the claimants. In the said Award, considering the fact of Sunil-respondent No.1 to be driver of jeep bearing registration No.HR-10B-2876 and also considering the present appellant, to be registered owner of the offending vehicle, at the relevant time, the liability to pay the compensation, so awarded, was fastened upon the present appellant Devender, as well as respondent No.1-Sunil, in capacity of being owner and the driver of the offending vehicle, respectively.

Feeling aggrieved by the aforesaid Award, appellant Devender has filed the present appeal.

In pursuance of the notice issued by the Court, none had made appearance on behalf of respondents No.1 to 4. However, respondents No.5 to 9 (claimants) made appearance through counsel.

I have heard learned counsel for the appellant as well as learned counsel for respondents No.5 to 9 and have perused the record.

The fact of accident and manner of taking place of the same, as such, has not been challenged by the appellant. The appellant has only disputed the liability, fastened upon him, to pay the compensation amount, as it is his specific claim that he had sold jeep bearing registration No.HR-10B-2876 to one Sunehra s/o Thambu Ram.

Even though, Kuldeep Singh-respondent No.2 has been

impleaded in the capacity of being owner of offending jeep bearing registration No.HR-10B-2876 , but however, in reply, respondent No.2 had stated that he is neither registered owner nor has any concern with the offending vehicle. No such evidence has been brought on record qua his concern with the offending vehicle.

As clear from the evidence adduced, respondent No.2A-Joginder s/o Amar Singh was the earlier owner of the jeep in question. However, Joginder Singh, in reply to the claim petition had submitted that he is not the registered owner of the vehicle and he had sold the vehicle to Devender s/o Jai Pal i.e. the present appellant (who was impleaded as respondent No.2B before the Tribunal). He also submitted that said vehicle was transferred in the name of Devender, in the year 2002, vide endorsement No.31/DTO dated 13.12.2002.

Even said Devender had filed the reply, wherein, he had stated that he was not registered owner in possession of the vehicle in question. He had sold the said vehicle to Sunehra s/o Thambu Ram (respondent No.2C) on 27.09.2003 and since then, he has no concern with the said vehicle.

Even, Sunehra had filed the reply, wherein, he had stated that he is neither owner nor in possession of the offending vehicle, as he had already sold the same to Naresh s/o Balwan.

Keeping in view the multiple sales of the vehicle, as stated aforesaid, now it is submitted by learned counsel for the appellant that since the offending vehicle had already been sold by the present appellant and he was not in possession of the same, as such, liability cannot be fastened upon

him.

In this regard, suffice to make reference to the witness namely Kulwant Singh, Clerk, RTA Office, Sonipat, who was examined as PW-5. He had brought on record of jeep bearing registration No.HR-10B-2876 and had deposed that it was registered in the name of Joginder Singh and further, it was got transferred in the name of Devender s/o Jai Pal on 05.07.1999. He also deposed that as per the record, the said vehicle is still in the name of Devender. As such, it is evident that till that date, the vehicle stood registered in the name of Devender.

Even though, said Devender has himself stepped into witness box as RW-3 and in his affidavit Ex.RW3/A, he had stated about jeep bearing registration No.HR-10B-2876, to have been sold to Sunehra, relating to which, agreement of sell Ex.RW3/B and power of attorney dated 12.02.2004 Ex.RW3/C has also been tendered into evidence, but however, it has been rightly observed by the Tribunal that the said witness himself had admitted to be correct about the registration number of the said vehicle, to be still existing in his name.

PW-5 Kulwant Singh, Clerk, RTA Office, Sonipat, had stated about the registration No.HR-10B-2876, to have been transferred in the name of Devender s/o Jai Pal, on 05.07.1999 and till date i.e. **29.08.2012**, it is still in the name of Devender. The accident in question had taken place on 01.09.2008. Thus, in the given circumstances, it has been rightly concluded by the learned Tribunal that Devender-present appellant was registered owner of the offending vehicle, at the time of taking place of the accident.

In this regard, suffice to make mention to the decision rendered by the Hon'ble Supreme Court in ***Surendra Kumar Bhilawe vs. The New India Assurance Company Limited, 2020 AIR (Supreme Court) 3149***, wherein, it has been held that in view of the definition of the expression 'owner' in Section 2(30) of the Motor Vehicle Act, 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'.

In ***Naveen Kumar vs. Vijay Kumar and others, in Civil Appeal No.1427 of 2018, decided on 06.02.2018***, it was held that where registered owner purported to transfer vehicle but continues to be reflected in records of registering authority as owner, he would not stand absolved of liability. Therein, it was observed that principle underlying provisions is that victim of motor accident, not to be left in state of uncertainty. The claimant for compensation, ought not to be burdened with following trail of successive transfers, which are not registered with registering authority.

In the light of the aforesaid, when appellant Devender is shown to be registered owner of the offending vehicle, at the relevant time of the accident, therefore, for the purposes of grant of compensation, in a motor vehicular accident, the liability has to be fastened upon him, as he still continues to be registered owner, despite further sale of jeep bearing registration No.HR-10B-2876. Thus, on this count of liability, the submission so made aforesaid, is hereby rejected.

Besides the aforesaid, even learned counsel for the appellant has made a prayer for reduction of the compensation, so granted by the Tribunal. It is submitted that higher multiplier has been applied by learned

Tribunal, while making assessment of the compensation.

In this regard, it is pertinent to mention that as per the version of the claimants, the deceased was 48 years old, at the time of accident. However, no evidence relating to the specific date of birth of the deceased, as such, has come on record. Considering the recitals of the post-mortem report, Ex.P2, the age of the deceased Ram Kumar, was concluded to be 49 years, at the time of the accident. Considering this to be age of the deceased, even though, it is stated that higher multiplier of '13' has been applied, but however, it is not so.

As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the suitable multiplier applicable for the age group of 46-50 is '13' and therefore, it cannot be said that higher multiplier has been applied, to work upon the compensation. Thus, on this count also, no case is made out for reduction of the compensation, so worked upon.

In the light of the aforesaid observations, the appeal sans merit and the same is hereby dismissed.

October 18, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No