

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

**CR-4666 of 2022(O&M)
Date of Decision: 19.07.2023**

Rajpal

...Petitioner

Versus

Jora Singh & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Dheeraj Narula, Advocate
For the petitioner.**

**Mr. I.S. Narula, Advocate
For respondent No.1.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by petitioner Rajpal against the order dated 18.10.2021 (Annexure P-6) passed by the MACT, Sirsa whereby the application moved by the petitioner under Order 1 Rule 10 CPC has been dismissed.

2. The brief facts of the case are that respondent No.1 Jora Singh has filed claim petition against Gurmail Singh, driver, present petitioner (registered owner) and insurance company of offending motor cycle No. HR25C-8233. Petitioner appeared before the MACT concerned and filed an application under Order 1 Rule 10 CPC to delete his name from the array of the parties on the ground that he sold offending motor cycle to one Joginder Singh against affidavit (Annexure P-4) dated 13.06.2016, whereas the accident in question took place thereafter on 05.02.2018 and as such there is no liability of the petitioner. There was further prayer that aforesaid Joginder

Singh be impleaded as a party to the claim petition. The said application was dismissed in toto by the Tribunal vide impugned order (Annexure P-6). Being aggrieved the petitioner has filed the present petition.

3. I have heard the counsel for the petitioner.

4. The counsel for the petitioner at the outset made prayer that at this stage petitioner is withdrawing his prayer to delete his name from array of the parties. The counsel for the petitioner further submits that Joginder Singh, the subsequent purchaser of the offending vehicle is necessary party for adjudication of the claim petition. The counsel for the petitioner further submits that petitioner sold the offending vehicle to said Joginder Singh much prior to the date of accident vide affidavit (Annexure P-4) and said Joginder Singh took the offending motor cycle on *sapurdari* from the Court concerned vide order (Annexure P-5) by claiming his ownership regarding the offending motor cycle. The counsel for the petitioner further submits that as per the decision given by the Hon'ble Apex Court in **Purnya Kala Devi Vs. State of Assam & Anr. 2014(2) RCR(Civil) 591**, even a person in control and possession of offending vehicle could be construed as owner of the same for the purpose of claim petition filed under Section 166 of Motor Vehicle Act. That thereafter, the Hon'ble Supreme Court in **Naveen Kumar Vs. Vijay Kumar & Ors. 2018(2) RCR(Civil) 724**, held that the liability to pay compensation is upon the registered owner. The counsel for the petitioner further submits that in the light of the aforesaid two judgments of Hon'ble Supreme Court, even the subsequent purchaser is to be considered as proper party for the disposal of claim petition.

5. I have considered the submissions made by counsel for the petitioner.

6. In the light of law laid down by Hon'ble Apex Court in Naveen Kumar's case (supra), the plea taken by the petitioner that his name be deleted from array of parties is not tenable. Even otherwise, the counsel for the petitioner has withdrawn the said prayer.

7. It apparently appears that petitioner is registered owner of the offending vehicle but his plea is that he sold the same to one Joginder Singh on 13.06.2016 vide affidavit (Annexure P-4) and that since then said Joginder Singh is in control and possession of the offending vehicle and after the accident in question the said motor cycle was taken on *sapurdari* by said Joginder Singh from the Court concerned claiming him to be the owner of the same vide order (Annexure P-5). Thus, it appears that at the time of accident the offending vehicle was in control and possession of said Joginder Singh and as per the law laid down in Purnya Kala Devi's case (supra) such a person could also be held liable to pay compensation. So, this Court is of the view that aforesaid Joginder Singh is a proper party for just decision of the claim petition and accordingly he is hereby ordered to be impleaded as respondent in the claim petition filed by respondent No.1 which is pending before MACT, Sirsa.

8. In view of discussion above, the present petition is partly allowed to the extent stated above. The amended memo of parties be filed in the MACT concerned and thereafter Tribunal should proceed further in accordance with law.

19.07.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No