

125. 2024:PHHC:027448
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6420 of 2023 (O&M)
Date of decision: 11.03.2024

Harjinder Singh ... Appellant
Versus

Amrinder Singh and others ... Respondents

2. FAO No.6422 of 2023 (O&M)

Harjinder Singh ... Appellant
Versus

Amit Sharma and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Karanjeet Singh Brar, Advocate, for the appellant.

GURBIR SINGH, J.

C.M. No.22185-CII of 2023 in FAO No.6420 of 2023
C.M. No.22193-CII of 2023 in FAO No.6422 of 2023

Prayer in both the applications filed under Section 151 CPC
is for exemption from filing certified as well as true typed copy of
impugned award(s) dated 06.11.2023 passed by learned MACT, Moga.

For the reasons stated in the applications, same are allowed.

C.M. No.22189-CII of 2023 in FAO No.6420 of 2023
C.M. No.22195-CII of 2023 in FAO No.6422 of 2023

Prayer in both the applications filed under Section 151 CPC
read with Section 173 of Motor Vehicles Act is for exemption from
depositing Rs.25,000/- at the time of filing the appeal(s).

For the reasons stated in the applications, same are allowed.

FAO Nos.6420 and 6422 of 2023

1. This order shall dispose of aforesaid two appeals as these arise out of same accident.

2. Both the appeals have been filed by Harjinder Singh, who is the registered owner of the offending vehicle i.e. Etios Vivo bearing registration No.PB-30-V-0304, against the awards dated 06.11.2023 whereby he along with driver-Manjeet Singh alias Sunny has been held liable jointly and severally to pay compensation to the claimants.

2.1 The accident, in question, took place on 11.02.2022, two persons died, namely, Manwinder Kaur and Uma Sharma alias Kavya. The appeal in FAO No.6420 of 2023 has arisen from MACP No.22, dated 19.07.2022 on account of death of Manwinder Kaur and the claimants are husband-Amrinder Singh and their minor daughter, namely, Nimrat Kaur, whereas FAO No.6422 of 2023 has arisen from MACP No.23, dated 19.07.2022 on account of death of Uma Sharma alias Kavya and the claimants are husband-Amit Sharma and their minor daughter, namely, Kohinoor Sharma.

2.2 The claimants in their respective claim petitions filed before the Tribunal had pleaded that on 11.02.2012 at about 1:30 PM, Manwinder Kaur and her friend Uma Sharma alias Kavya Sharma, who were working with Friends Finance Company, Manuke, were going to

their office on Activa Deluxe scooter bearing registration No.PB-66-A-1517, being driven by Uma Sharma alias Kavya and all of a sudden, a car bearing registration No.PB-30-V-0304 make Etios Vivo of white Colour, being driven by respondent No.1-Manjeet Singh alias Sunny, rashly and negligently, hit the activa and due to the accident, both the occupants of the activa received serious injuries. Amit Sharma, husband of Uma Sharma alias Kavya, who was coming behind on his motorcycle, witnessed the said accident. He took the injured to Moga Medicity Hospital, but both ultimately succumbed to the injuries during treatment. Initially, FIR No.29, dated 12.02.2022 was registered against unknown person but lateron respondent No.1 was nominated vide DDR No.23, dated 16.02.2022. Amit Sharma, husband of Uma Sharma alias Kavya, was the author of said FIR and an eyewitness to the accident.

2.3 Before the Tribunal, upon notice, respondent No.1-driver appeared and denied the accident. Respondent No.2-Harjinder Singh, appellant herein, contended that he had already sold the offending vehicle to Gurdeep Singh, who was respondent No.6 before the Tribunal, vide duly sworn sale-purchase affidavits dated 23.07.2021 and, therefore, he had no concern with the alleged accident. It was stated that said respondents No.1 and 2 did not disclose the particulars of said offending car. Respondent No.4-Baltej Singh, who was the owner of activa, contended that on the unfortunate day of 11.02.2022, both Manwinder Kaur and Uma Sharma alias Kavya came to him and asked for his activa

for two hours and assured him to return the same thereafter. As he was having cordial relations with the family of Manwinder Kaur since long, he gave his activa, however, it met with the accident. His activa was totally damaged and its scrap was still lying with the concerned police station. He himself suffered huge financial loss, but contended that the claimants had wrongly arrayed him as a party. Respondent No.5-HDFC, Ergo General Insurance Company, who was the insurer of Activa, contended that while making entry to highway, it was the duty of the deceased to take all precautions whether any vehicle was coming from the side of highway but she failed to take such care and she was negligent. It was a case of contributory negligence. There was discrepancy in mentioning the time of accident and place of death. The driver of offending car was not holding valid driving licence at the time of accident. So, the Insurance Company was not liable to pay any compensation. Respondent No.6-Gurdeep Singh also put in appearance and contended that the offending vehicle had already been sold by him to one Baldev Singh son of Parmatma Singh, vide sale-purchase affidavit dated 30.10.2021 and had no concern with the said car on the date of accident which took place on 11.02.2022.

2.4 Vide separate awards dated 06.11.2023, both the claim petitions were allowed. In MACT No.22, the claimants were awarded compensation of Rs.18,29,545/-, whereas in MACP No.23, the claimants were awarded Rs.20,16,400/-. Respondents No.1 and 2 i.e. driver and

registered owner of the offending car were held liable to pay compensation jointly and severally to the respective claimants.

2.5 Aggrieved against the said awards, the owner of the offending car has approached this Court by way of present appeals.

3. Learned counsel for the appellant contends that the appellant has been falsely involved in the present case as he had already sold the offending car to respondent No.4-Gurdeep Singh vide sale-purchase affidavit dated 23.07.2021 and that fact was admitted by respondent No.4 during his cross-examination, who further sold the offending car to one Baldev Singh vide sale-purchase affidavit dated 30.10.2021 and the said affidavit was exhibited as Ex.R1. It has been submitted that the original affidavit vide which the appellant sold the vehicle to respondent No.4 was handed over to the police officials at the time of registration of the FIR. Before entering the highway, the deceased were required to take all precautions, but they in a rash and negligently manner entered the highway. So, it is a case of contributory negligence. The award is on the higher side. The income of the deceased and future prospects have been wrongly assessed. Reliance is placed on case ***Urmila Versus Sushma and others, MACT App. 917/2017, decided on 18.03.2019***, judgment of High Court of Delhi at New Delhi.

4. I have heard the submissions of learned counsel for the appellant and have gone through the file.

5. Manjeet Singh @ Sunny, the driver of the offending car stepped into the witness-box as RW2 and admitted that challan was filed against him in the Court and he was facing trial. Although his name was not written in the FIR and it was registered only against unknown person of offending car showing the registration number. It is neither his case nor the case of the owner of the vehicle that said car was being driven by someone else. The police after investigation submitted challan against him to face trial and there is no ground to disbelieve the same. Reliance can be placed on case ***Girdhari Lal Versus Radhey Shyam and others, 1993(2) PLR 109***. Except self-serving statement of respondent No.1, there is no other evidence that deceased was negligent in driving the activa scooter. So, it cannot be said that the deceased was negligent.

6. The learned Tribunal has considered both the deceased as housewife and assessed their notional income as notified by the Punjab Government under the Minimum Wages Act for an unskilled labourer at the relevant time, as Rs.9,399.73, which was rounded off to Rs.9,400/- per month, by considering that the contributions made by a wife to a house is unvaluable and cannot be computed in terms of money. So, the income of an unskilled labourer equivalent to contribution made by housewife cannot be considered on higher side.

7. It is an admitted case that the appellant was registered owner of the vehicle on the day of accident, though he has tried to set up the defence that he had already sold the offending car to respondent

No.4-Gurdeep Singh, who further sold it to one Baldev Singh vide sale-purchase affidavit dated 30.10.2021, but the fact remains that he was the registered owner on the day of accident in the record of the concerned registering authority and cannot escape from liability. In case ***Naveen Kumar Versus Vijay Kumar and others, 2018 AIR (Supreme Court) 983***, the Hon'ble Supreme Court, under similar circumstances, fastened the liability on the registered owner of the vehicle. The extract of said judgment reads as under:-

“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.

13. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In Dr T V Jose, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled.”

8. In case ***Sourabh Boparai***, the decision in ***Naveen Kumar’s case (supra)*** was not brought to the notice of Hon’ble Bench of Delhi High Court. Moreover, compensation is granted under Section 166 of Motor Vehicles Act and in Section 2(30), ‘owner’ is defined as registered owner. Thus, the appellant being registered owner cannot say that he is not liable to pay the amount of compensation to the claimants.

9. In view of above, since appellant was found to be the registered owner at the time of accident, he cannot escape from his liability to pay compensation to the claimants. A well reasoned award has been passed in both the cases and this Court does not find any ground for interference. Accordingly, both the appeals are dismissed.

10. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

March 11, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No