



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

(i) FAO-6907-2011 (O&M)

Rajvir Singh @ Rajbir Singh
...Appellant

VERSUS

Tarsem Chand and others
...Respondents

(ii) FAO-6949-2011 (O&M)

Rajvir Singh @ Rajbir Singh
...Appellant

VERSUS

Tarsem Chand and others
...Respondents

Date of Decision: January 28, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Saurabh Bahmani, Advocate
 for the appellant.

 Respondents No.1 and 2 ex-parte.

 None for respondent No.3.

 Mr.Karan Singla, Advocate
 for respondents No.4 and 5.

ARCHANA PURI, J.

These are two appeals, filed at the instance of the registered owner of Tata Safari bearing registration No.CH-03S-0821 (hereinafter referred to as offending vehicle) to assail the Award dated 10.09.2011

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passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted in two claim petitions, filed by two sets of LRs of Jasvir Singh, who died in a motor vehicular accident.

As per the version of the claimants, the accident had taken place on 07.04.2010, on account of rash and negligent driving of the offending vehicle by its driver Prince Kumar and the same resulted into death of Jasvir Singh, who was driving the motorcycle bearing registration No.PB-12G-6648, at the relevant time.

Consequently, two different claim petitions were filed; one was filed by Sandeep Kaur i.e. MACT No.78 of 04.08.2010, in which, Gurmeet Kaur and Balihar Singh-parents of the deceased were impleaded as respondents, whereas, the other one i.e. MACT No.91 of 27.08.2010 was filed by Smt.Gurmit Kaur and Balihar Singh, parents of the deceased and therein, Sandeep Kaur, widow of deceased was impleaded as proforma respondent.

So far as, factum and manner of taking place of the accident and death of Jasvir Singh is concerned, the same is not a matter of dispute in the present appeals. However, it is pertinent to mention that appellant Rajvir Singh @ Rajbir Singh, who was impleaded as respondent No.2 before the Tribunal, in the capacity of being registered owner of the offending vehicle, in his reply, had raised the specific issue that he had sold the offending vehicle to Tarsem Chand s/o Satpal, by delivery of possession to him, on that very day and about execution of the affidavit. Thereupon, said Tarsem Chand was impleaded in the claim petitions.

However, on appraisal of the evidence, brought on record, learned Tribunal had assessed the compensation to the extent of Rs.3,99,000/- and

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awarded compensation to the widow and mother of deceased to the extent of Rs.1,50,000/- each and residue amount of Rs.99,000/- to the father of the deceased. Learned Tribunal had concluded that Rajvir Singh @ Rajbir Singh, as per the contents of Mark 'RX', copy of the registration certificate, is the registered owner. Since, the offending vehicle is still in the name of Rajvir Singh @ Rajbir Singh, therefore, in the capacity of being registered owner, he cannot escape from the liability. Consequently, the liability to pay the compensation was fastened upon the driver as well as the registered owner and subsequent owner i.e. Prince Kumar, Rajvir Singh @ Rajbir Singh and Tarsem Chand and therein, liability was held to be joint and several.

Feeling aggrieved by the liability, saddled upon Rajvir Singh @ Rajbir Singh, the registered owner, the present appeals have been filed.

In pursuance of the notice issued, respondents No.1 and 2 i.e. subsequent owner Tarsem Chand as well as driver Prince Kumar, were proceeded against ex-parte. Even, Sandeep Kaur-respondent No.3, had not made appearance through counsel. Only the parents of the deceased i.e. respondents No.4 and 5, had made appearance through counsel.

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the appellant that in fact, much prior to the taking place of the accident, appellant Rajvir Singh @ Rajbir Singh had sold the offending vehicle to Tarsem Chand s/o Satpal on 19.03.2009 by delivery of possession to him. In this regard, learned counsel has made reference to the testimony of Rajvir Singh @ Rajbir Singh, who stepped into witness box and further also

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submitted that Tarsem Chand had executed an affidavit, with regard to this transaction of sale and the same is Mark 'X'. Besides the same, an agreement was executed, which is Ex.AY, wherein, Tarsem Chand had admitted about the factum of sale and also his liability vis-a-vis taking place of the accident. Such being the documents coming forth, it is submitted that even though, the appellant is registered owner of the offending vehicle, but however, since the vehicle had been sold and he was not having any effective control over the said vehicle, therefore, in any case, the liability cannot be fastened upon him, to pay the compensation awarded to the claimants and thus, learned Tribunal had erroneously saddled the liability upon him.

However, respondents No.4 and 5, who are parents of the deceased and who were the claimants before learned Tribunal, had not seriously contested the claim of the appellant.

In fact, Tarsem Chand, the subsequent owner had not come forth before the Court to resist the absolvment of the appellant, as prayed for.

Such being the position, at the very outset, it is essential to make reference to the agreement Ex.AY. It is pertinent to mention that this agreement has been executed on 28.06.2011, i.e. during the pendency of the claim petition before learned Tribunal. Even if, it has been so executed, not much right flows to any party, on the basis thereof, so far as, the present claim petitions are concerned. Likewise, even though, the affidavit Mark 'X' is also there, but without dilating further, taking into consideration, the same also, at the maximum, reveals about the sale of the offending vehicle by the appellant to Tarsem Chand s/o Satpal. But however, no such



sustenance can be drawn by the appellant, from the aforesaid documents.

The definition of ‘owner’, which is provided under the Motor Vehicle Act, as given in Section 2(30), is reproduced, as herein given:-

“owner means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;

Keeping in view the definition of ownership, as aforesaid, it is essential to make reference to the decision rendered by the Hon’ble Supreme Court in ***Naveen Kumar vs. Vijay Kumar and others, 2018(2) RCR(Civil) 74***, wherein, while dealing with the question of sale of vehicle and also about the manner of fastening liability, upon the registered owner or subsequent owner, it was held as herein given:-

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 fulfillment 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

Consequently, the Hon'ble Supreme Court had upheld the decision rendered by learned Tribunal, whereby, the registered owner was held to be jointly and severally liable, together with the driver of the vehicle involved in the accident.

Further also, reference is also made to the decision rendered by

Hon'ble Supreme Court in ***Surendra Kumar Bhilawe vs. The New India***



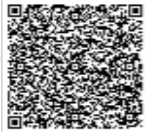
Assurance Company Limited, 2020 AIR (Supreme Court) 3149, wherein, in view of the definition of the expression '**owner**' in Section 2(30) of the Motor Vehicles Act, it was held that the person, in whose name the motor vehicle stands registered, for the purposes of the Act, would be treated as the '**owner**'.

Also, reference is made to decision rendered in *Parkash Chand Daga vs. Saveta Sharma and others, 2019(1) RCR (Civil) 372*, wherein the Hon'ble Supreme Court held that so long as the name of owner continues in RTO record, he remains liable to third person. Therein also, reliance was placed upon *Naveen Kumar's case (supra)*. Also further, reference was made to *T.V.Jose 2002(1) RCR (Civil), 120*, wherein, the Court that 'there can be transfer of the title by payment of consideration and delivery of the car. But for the purpose 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'.

Further, while summing up, it was held that the law is thus well settled and can be summerised, as herein given:-

“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.

In the backdrop of the aforesaid case law, keeping in view the



definition of ‘owner’ as given in Section 2(30) of the ibid Act, it is the registered owner, who continues to remain liable, despite the alleged sale of the offending vehicle.

In the light of the same, the liability to pay the compensation, as worked upon by learned Tribunal, is to be fastened only upon driver Prince Kumar and registered owner Rajvir Singh @ Rajbir Singh.

Thus, the liability to the pay the compensation awarded by learned Tribunal, on account of death of Jasvir Singh, is only fastened upon Prince Kumar, in the capacity of being driver and appellant Rajvir Singh @ Rajbir Singh, in the capacity of being registered owner.

Hence, both the appeals sans merit and are hereby dismissed.

January 28, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No