
(1993) 09 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal of Order No. 1277 of 1985

Shiv Nath

APPELLANT

Vs

Nand Kishore and Others

RESPONDENT

Date of Decision: Sept. 1, 1993

Acts Referred:

- Motor Vehicles Act, 1939 - Section 103A

Citation: (1994) 1 ACC 570 : (1995) ACJ 362 : (1994) 107 PLR 669

Hon'ble Judges: Amarjeet Chaudhary, J

Bench: Single Bench

Advocate: Ashok Aggarwal and Yogesh Goel, for the Appellant; Arun Jain and Harish Aggarwal, for the Respondent

Final Decision: Dismissed

Judgement

Amarjeet Chaudhary, J.

This, order will dispose of FAO No. 1277 and 1278 of 1985 which have arisen out of the common award of the Motor Accident Claims Tribunal, Faridabad dated 29.8.1985.

2. The Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as the Tribunal) on two claims petitions u/s 110-A of the Motor Vehicles Act filed by Krishna Wanti and Nand Kishore, claimants had awarded a sum of Rs. 21,000/- on account of the death of one Rajesh Malik who died in the accident with scooter No. DHP 6423 being driven by Sajjan Kumar, belonging to Shiv Nath.

3. In this case, the Tribunal had fastened the liability to pay compensation on Shiv Nath, appellant, the alleged owner of the said scooter, Sajjan Kumar, respondent No. 2 who was driving the same at the time of alleged accident and Sanjeev Grover, respondent No. 4, driver/owner of Motor Cycle No. DEX 7299.

4. These appeals have been filed by Shiv Nath, the alleged owner of Scooter No. DHP 6423, whereas the drivers of the scooter and the Motor Cycle have not come in appeal.
5. The material issue before the Court whether Rajesh Malik died due to rash and negligent driving of scooter No. DHP 6423 by Sajjan Kumar, respondent No. 2 whether the appellant was the owner of the said vehicle on the date of the alleged accident.
6. I have gone through the case filed and appraised the entire evidence on record.
7. The Tribunal under issue No. 1 had held that the accident had taken place due to rash and negligent driving of scooter No. DHP 6423 which was being driven by Sajjan Kumar and the said scooter belonged to the appellant. The case of the appellant before the Tribunal as well as this Court is that the scooter was sold to Sajjan Kumar on 27.7.1977. In order to fortify his contention, he had produced on record a photostat copy of receipt Ex. PW-3/1 though this fact was denied by Sajjan Kumar while appearing as RW-2.
8. In the case in hand, the alleged accident had taken place on 7.9.1981 and one Rajesh Malik had died in the said accident, In order to settle the controversy whether appellant Shiv Nath was the owner of the offending vehicle on the date of alleged accident or not I have scanned the testimony of Babu Singh, Clerk of the Registration office who was material witness before the Tribunal while appearing as RW-4, this witness had stated in clear terms that scooter No. DHP 6423 was originally in the name of Som Nath in the year 1976. On the basis of sale letter dated 4.5.1982, the said scooter was transferred in the name of Manohar Lal. This witness had further stated that according to office record, Shiv Nath was a registered owner of the scooter on 7.9.1981 i.e. the date of accident. As per testimony of this witness, Shiv Nath, appellant, had purchased the said scooter from one Som Nath, Subsequently, he sold it to Manohar Lal on 4.5.1982 who further sold the same to Mr. J.S. Joshi on 25.10.1982. This witness had also stated that there was no sale letter on their record on behalf of Shiv Nath for transferring the scooter in the name of Sajjan Kumar, in the light of the statement of this witness, I am of the considered view that on 7.9.1991, the date of alleged accident, Shiv Nath, appellant was the owner of the offending scooter. Had this scooter been sold to Sajjan Kumar, it must have been transferred in his name, I see no reason to disbelieve the testimony of Babu Singh (RW-4). It appears that Sajjan Kumar might have obtained the scooter of Shiv Nath with his consent on the alleged date of accident which unfortunately met with an accident. The Tribunal had rightly held that the accident had taken place as a result of rash and negligent driving of scooter No. DHP 6423. I do not see any infirmity in the well reasoned findings arrived at by the Tribunal.
9. Consequently, both these appeals are dismissed being devoid of any merit, No order as to costs.