
Vipin Kumar Sharma Vs Jagwant Kaur and Others

First Appeal from Order No. 2137 of 2005

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 28, 2005

Acts Referred:

Motor Vehicles Act, 1988 & Section 140, 162, 166, 168, 177

Citation: (2005) 4 ACC 715 : (2007) ACJ 1249 : (2005) 141 PLR 454 : (2005) 4 RCR(Civil) 40

Hon'ble Judges: N.K. Sud, J; Ajay Kumar Mittal, J

Bench: Division Bench

Advocate: Puneesh Jindia, for the Appellant;

Final Decision: Dismissed

Judgement

Ajay Kumar Mittal, J.

This is owner's appeal against the award dated 1.12.2004 of the Motor Accident Claims Tribunal, Kapurthala (for

short "the Tribunal") whereby respondent Nos. 1 to 3 have been awarded compensation in the sum of Rs. 4,82,000/- in equal shares along with

interest at the rate of 9% per annum from the date of filing of the claim petition till realisation.

2. On 27.7.2003, one Ravinderbir Singh, aged about 29 years, working as a police constable in the Punjab Police died due to the injuries

sustained by him in an accident which took place between the motor-cycle driven by him and the Yamaha motor cycle bearing registration No.

PB-09-1491 being driven by Sukhwinder Singh, respondent No. 5. The widow, a minor son, the mother and the father of Ravinderbir Singh,

respondent Nos. 1 to 4 respectively filed a petition u/s 166 of the Motor Vehicles Act, 1988 (for short "the Act") claiming compensation for the

death of Ravinderbir Singh. The petition was contested both by the driver and the owner of the offending motor-cycle. The accident was admitted

by both of them. Respondent No. 5 i.e. the driver took a plea that the accident took place on account of rash and negligent driving of Ravinderbir

Singh himself. The appellant, however, took a stand that he was not the owner of the offending motor-cycle on the date of accident as he had

already sold the vehicle to one Gurnam Singh way back in the year 1996 Gurnam Singh had not got the vehicle transferred in his own name and

rather had sold it to Sandeep Auto Deals, Gill Road, Ludhiana on 6.11.1997. The owner of Sandeep Auto Deals, Ludhiana further sold the said

vehicle to one Anil Kumar Bhatia and the latter sold the same to one Lakhbir Singh. The vehicle changed hands thereafter from Lakhbir Singh to

one Rinku Sondhi from Rinku Sondhi to one Kuldip Kumar on 13.12.2001 and Kuldip Kumar sold the same to Sukhwinder Singh i.e. respondent

No. 5. It was further stated in the written statement filed by the appellant that Sukhwinder Singh had also executed an affidavit dated 11.11.2003

whereby he had admitted that he had purchased the following motor cycle from Kuldip Kumar. The appellant thus specifically stated that he was

not the owner of the offending vehicle at the relevant time and, therefore, no petition could legally be filed against him.

3. The Tribunal on appreciation of evidence led on record by both the parties came to the conclusion that the accident took place due to rash and

negligent driving of the motor-cycle driven by Sukhwinder Singh. Though all the four claimants i.e. Respondent Nos. 1 to 4 were held to be legal

representatives of the deceased, but in view of the statement of claimant Jagwant Kaur i.e. the widow of the deceased that only she, her son and

her mother-in-law were dependent upon the deceased, the award was passed in their favour only and Resham Singh, respondent No. 4 i.e. the

father of the deceased was not held entitled to the compensation.

4. As regards quantum of compensation, the dependency of respondent Nos. 1 to 3 on the deceased was held to be at Rs. 4,000/- per month.

Having regard to the age of the deceased i.e. 30 years at the time of the accident multiplier of ten was applied and consequently, a total

compensation of Rs. 4,82,000/- was awarded with interest as stated in the earlier part of the judgment. Both, the driver and the owner of the

offending vehicle i.e. the appellant and respondent No. 5 herein were held liable jointly and severally to pay the amount of compensation. The

amount of compensation in respect of share of Raj Jeet Singh the minor son of the deceased was ordered to be deposited in Fixed Deposit

Receipt in some nationalised bank. It was ordered that he shall be entitled to withdraw the same on attaining majority.

5. Feeling aggrieved by the afore-said award, the present appeal has been filed by the registered owner of the offending motor-cycle.

6. Learned Counsel for the appellant submitted that the appellant was not the owner of the offending vehicle as he had sold the same to one

Gurnam Singh in the year 1996. He submitted that Gurnam Singh had not got the vehicle transferred in his name and had further sold the same to

Sandeep Auto Deals, Ludhiana in 1997. The vehicle thereafter changed hands and was sold to one Anil Kumar Bhatia who also sold the same to

one Lakhbir Singh. Lakhbir Singh also sold the same to one Rinku Sondhi and the latter sold to one Kuldip Kumar in 2001 and Kuldeep Kumar

sold the same to Sukhwinder Singh, respondent No. 5. The Counsel thus submitted that though the registration of the vehicle was not got done, but

since it was sold by the appellant to various other persons, it was the last owner who was liable to pay the compensation and not the appellant.

7. We have heard learned Counsel for the appellant and have perused the record.

8. The core question which requires determination in this appeal is whether the registered owner is liable or the owner who has purchased the

motor vehicle without getting change of ownership with the Registering Authority and in the registration certificate is to pay the compensation.

9. Before dwelling on the legal issue involved herein, it would be expedient to reproduce relevant provisions of the Act.

10. Section 168 of the Act deals with the Award of the Claims Tribunal. The text of Section 168 of the Act reads thus:

168. Award of the Claims Tribunal.- (1) On receipt of an application for compensation made u/s 166, the Claims Tribunal shall, after giving notice

of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as

the case may be, each of the claims and, subject to the provisions of Section 162 may make an award determining the amount of compensation

which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims

Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of

them, as the case may be:

Provided that where such application makes a claim for compensation u/s 140 in respect of the death or permanent disablement of any person,

such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent

disablement shall be disposed of in accordance with the provisions of Chapter X.

(2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of

fifteen days from the date of the award.

(3) When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the

date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct." Sub-

section (30) of Section 2 of the Act defines ""owner"", which reads as under:

Owner"" means a person in whose name a motor vehicle stands registered, and where such person is 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.

Sub-sections 1 and 3 of Section 50 of the Act ibid provide for the manner in which ""Transfer"" of ownership"" shall take place and reads thus:

(1) Where the ownership of any motor vehicle registered under this Chapter is transferred:-

(a) the transferor shall,-

(i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such

documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer

is to be effected and shall simultaneously send a copy of the said report to the transferee; and

(ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in Sub-

clause (i)-

(A) the no objection certificate obtained u/s 48; or

(B) in a case where no such certificate has been obtained,-

(I) the receipt obtained under Sub-section (2) of Section 48; or

(II) the postal acknowledgement received by the transferee if he has sent an application in this behalf by registered post acknowledgement due to

the registering authority referred to in Section 48,

together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to

comply with any direction subject to which such certificate may be granted;

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence

or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering

authority together with the prescribed fee and a copy of the report received by him from the transfer or in order that particulars of the transfer of

ownership may be entered in the certificate of registration.

(2) Where-

(a)

(b)... ..

(3) If the transfer or the transferee fails to report to the registering authority the fact of transfer within the period specified in Clause (a) or Clause

(b) of Sub-section (1), as the case may be, or if the person who is required to make an application under Sub-section (2) (hereafter in this section

referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the

circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be

taken against him u/s 177 such amount not exceeding one hundred rupees as may be prescribed under Sub-section (5);

Provided that action u/s 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay

the said amount.

11. Section 168 of the Act provides that the Tribunal on an application filed u/s 166 of the Act claiming compensation shall after enquiring into the

claim etc. may make an award determining the amount of compensation specifying the person to whom such compensation shall be paid. It shall

also specify while making the award as to the amount which shall be paid by the insurer, the owner or the driver of the vehicle involved in the

accident or all or any or them. In case, the offending vehicle is not insured, then in that situation, the owner or the driver of the said vehicle shall be

made liable to pay the awarded amount. The word ""owner"" as defined u/s 2(30) of the Act would mean such a person in whose name the vehicle

stands registered. Section 50 of the Act provides for various requirements of law which are required to be observed before the vehicle would

stand registered from transferor to the transferee and the registration certificate amended incorporating such change.

12. A combined reading of the aforesaid provisions would show that the owner is a person in whose name the motor vehicle stands registered with

the registering authority and the transfer of the vehicle takes place only when the requirements prescribed under the Act have been complied with

the registering authority and who enters the same in its record.

13. Therefore, it is held that reference to ""owner"" in Section 168 of the Act is to the I registered owner of the vehicle.

14. The Apex Court in Dr. T.V. Jose v. Chacko P.M. Alias Thankachan and Ors. (2001) 8 S.C.C. 748, in para 10 had held that an owner

continued to remain liable to third parties as his name had not been changed in the records of the RTO. It further held that there can be transfer of

title by payment of consideration and delivery of the vehicle, but an owner still continues to remain liable to third parties as long as his name

continued in the records of the RTO as the owner. The Apex Court observed that the owner could adopt appropriate proceedings against the

vendee if in law, he was entitled to do so.

15. In view of the above, it cannot be said that the appellant was not liable to pay compensation as awarded by the Tribunal. Once it is found that

the appellant cannot escape his liability to pay compensation, there is no merit in this appeal. However, it shall be open to the appellant to take

recourse to appropriate proceedings in accordance with law against the vendee. The appeal is consequently dismissed.