

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****233****FAO-1386-2016 (O&M)
Date of decision: 22.04.2025****Sadhu Singh deceased through legal heir
Tajinder Singh****...Appellant(s)****Vs.****Seema Devi and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. D.S.Bhinder, Advocate for the appellant.

Mr. Amit Kumar Saini, Advocate for
respondents No.1 to 5.

NIDHI GUPTA, J.

The present appeal has been filed by the owner of the offending tractor-trolley bearing registration No. PUR-9903, Ford Make (hereinafter referred to as "the offending vehicle").

2. Power of Attorney filed on behalf of the appellant in Court today is taken on record.

3. Fresh Vakalatnama with 'No Objection' from earlier counsel filed on behalf of respondents No. 1 to 5 in Court today is taken on record.

4. Brief facts of the case are that vide Award dated 24.04.2009, MACT Petition No. 13 dated 24.07.2007 filed under Section 166 of the Motor Vehicles Act 1988 by the claimants/respondents No.1 to 5 herein, was allowed by learned Motor Accident Claims Tribunal, Nawanshahr (hereinafter referred to as "the learned Tribunal"), thereby granting



compensation of Rs.12,27,000/- to the claimants alongwith interest @ 7.5% per annum. On the basis of the pleadings and the evidence adduced before it, the learned Tribunal found that the deceased Dinesh Chander had died due to injuries suffered by him in a motor vehicular accident that took place on 24.3.2007 at about 7:30 PM, due to the rash and negligent driving of the offending vehicle by the respondent no.6. The appellant/owner of the offending vehicle and respondent no.6/driver of the offending vehicle were proceeded against ex parte before the Id. Tribunal as, despite publication, they failed to put in appearance. Liability to make payment of the above said compensation was also affixed upon the appellant and respondent No.6 jointly and severally.

5. Learned counsel for the appellant submits that the liability for payment of compensation could not have been affixed upon the appellant as he had already sold the offending tractor-trolley in the year 1990. It is submitted that therefore, a parent had no concern with the offending vehicle since 1990; and accordingly, liability for payment of compensation could not have been imposed upon the appellant. It is prayed that the present appeal be allowed.

6. The above said submission is controverted by learned counsel for the respondents/claimants by submitting that no evidence whatsoever has been produced by the appellant to show that offending vehicle was sold by him in 1990 and no details thereof have been provided. It is accordingly prayed that the present appeal be dismissed.

7. No other argument is made on behalf of the parties.



8. I have heard learned counsel for the parties and gone through the record. The learned Tribunal in para 12 of the impugned Award has held the appellant and respondent no.6 liable to pay the compensation as the deceased had lost his life due to negligent parking of the offending vehicle in the middle of the road; and therefore *“.....it necessarily follows that the owner and driver of the tractor trolley in question are liable to compensate the Claimants who were dependent upon Dinesh Chander.”*

9. It has been contended by learned counsel for the appellant that he could not have been held liable as he had sold the offending tractor trolley in 1990 i.e. several years before the accident had taken place. However, as pointed out by learned counsel for the claimants, there is no pleading let alone any evidence on record to show as to on what date; by what instrument; in what manner; for what amount; and to whom, the offending vehicle was sold by the appellant. No details whatsoever have been provided by the learned counsel for the appellant in respect of the said alleged transaction.

10. On the contrary, on a direct Court query, learned counsel for the appellant has admitted that on the date of accident, the registration of the offending tractor trolley was borne in the name of the appellant itself. This fact has also been noticed by the learned Tribunal even in para 21 of the impugned Award as follows: *“Respondent no.2 Sadhu Singh being the owner of tractor trolley, as on the date of accident, as is evident from the registration certificate, is also held vicariously liable to pay the aforesaid*



compensation to the claimants.” In this admitted situation, that on the date of accident, the appellant was registered owner of the offending vehicle, reference is made to the judgments passed by this Court in ***M/s. Rhee Pharmaceuticals vs. Sukhdeep Kaur and others, Law Finder Doc Id # 2230827***; and ***Savinder Singh vs. Binder Singh and others, Law Finder Doc Id # 2613541***; wherein it is held that registered owner remains liable under the Act unless the name is updated in the records of the registering authority.

11. The record further reveals that the appellant had filed an application before the learned Tribunal, for setting aside the ex parte order dated 29.11.2008 and ex parte Award dated 24.04.2009. The said application of the appellant was dismissed by the learned Tribunal vide order dated 23.11.2015 (Annexure A-3) with the following observations:-

“4. The provision of order 5 Rule 20(1A) lays down that Court may order service by way of an advertisement in a newspaper which shall be a daily newspaper circulating in the locality in which defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.

5. Tajinder Singh appeared as AW to prove his case. In his cross examination, he has admitted that address mentioned upon certificate of registration of Tractor was of Ropar. Perusal of record shows that vide order dated 16-10-2008 respondent no. 3 was ordered to be served by way of publication to Daily Desh Sewak and was proceeded against ex parte vide order dated 29-11-2008 and it is case of applicant himself that his father expired in February 2009. Therefore on the date of publication, his father Sadhu Singh



was alive and was duly served by way of publication in Daily Desh Sewak as mentioned in the interim order dated 29-11-2008 and this newspaper is circulated in that locality. Therefore, no ground is made out to set aside ex parte award dated 24-09-2009 passed by the Court of Sh. Gurvinder Singh Gill, the then Motor Accident Claim Tribunal, Shaheed Bhagat Singh Nagar. Hence, in view of the above said reasons and case laws, I do not find any merit in the instant application and the same is hereby dismissed.”

12. On a Court query, it has also been admitted by learned counsel for the appellant that the said order dated 23.11.2015 has not been challenged by the appellant before any Court of law.

13. In view of the above, nothing survives in the present appeal. In any event, there is a delay of 2397 days in filing the present appeal. Perusal of the application bearing No. CM-4855-CII-2016 filed for seeking condonation of aforesaid inordinate delay shows that the only reason given by the appellant is that impugned Award was passed on 24.04.2009 and the owner, Sadhu Singh had expired in February 2009. It has been submitted by the applicant – appellant (legal heir of said Sadhu Singh), that Sadhu Singh was not having knowledge of Award dated 24.04.2009 in his lifetime and he (legal heir of said Sadhu Singh) came to know about the same only during the execution proceedings. However, the said ground given by the appellant seems to be on the face of it, false for the above-reproduced observations made by the learned Tribunal in order dated 23.11.2015 (Annexure A-3).



14. Accordingly, the present appeal is hereby **dismissed** on merits, as well as on grounds of delay.

15. Pending application(s) if any also stand(s) disposed of.

22.04.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No