

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.12 OF 2010

Sri Satya Ranjan Goswami,
S/O. Sri Srish Goswami,
of Radhapur,
P.S. & P.O.-Dharmanagar,
District-North Tripura.

..... **Appellant.**

- V e r s u s -

1. Smti. Anima Mahishya Das,
W/O. Late Dinesh Mahishya Das,
2. Smti. Sathi Mahishya Das,
D/O. Late Dinesh Mahishya Das,
3. Sri Dipu Mahishya Das,
S/O. Late Dinesh Mahishya Das,
4. Sri Dipak Mahishya Das,
S/O. Late Dinesh Mahishya Das,
5. Sri Satyendra Mahishya Das,
S/O. Late Dinesh Mahishya Das,

(As the Respondents Nos.4 & 5
are minors they will be represented
by their mother i.e. Respondent
No.1 Smti. Anima Mahishya Das).

-All are residents
of Vill-Nahagram,
P.S. & P.S. Damcherra,
Dist. North Tripura.

6. Sri Samarendra Singha,
S/O. Late Bijoy Singha,
of Vill-Jahar Colony,
P.S. & P.O.-Damcherra,
Dist. North Tripura.

(Driver of the Vehicle No.
TR-02-A-0248 TATA SUMO).

7. Smti. Jyotshna Paul,
W/O. Sri Nilmani Paul,
P.O. Panisagar,
of West Panisagar,
Dist.-North Tripura.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the appellant	: Mr. P. Roy Barman, Advocate, Mr. S. Bhattacharji, Advocate.
For the respondents	: None.
Date of hearing and delivery of judgment and order.	: 11.03.2015.
Whether fit for reporting	: YES.

JUDGMENT & ORDER (ORAL)

This appeal is directed against the award dated 05-02-2010 passed by the learned Motor Accident Claims Tribunal, North Tripura, Dharmanagar in case No. T.S.(MAC) 37 of 2008 holding the appellant liable to pay the compensation.

2. The only issue raised by Mr. P. Roy Barman, learned counsel for the appellant, is that the appellant, on the date of the accident was not the owner of the vehicle and hence, not liable to pay compensation.

3. The undisputed facts are that the accident took place on 09-05-2007 and on this date due to the accident the deceased died and the claimants being the legal heirs of the deceased Dinesh Mahishya Das filed the petition for grant of compensation.

4. The present appellant was arrayed as respondent No.2 and he took the defence that much prior to 09-05-2007, i.e. in the year 2002 he had transferred the vehicle in question to Smti. Jyotshna Paul, W/O. Sri Nilmani Paul of West Panisagar on consideration of Rs.1,35,001/- and documents in this regard were

also annexed. Smti. Jyotshna Paul in her written statement did not deny the execution of this document but according to her, when she demanded all the necessary papers, documents including registration book, the same was not handed over by the present appellant.

5. I am not going into these aspects of the matter because the fact remains that in the registration record, the appellant continued to remain the owner of the vehicle. The purpose of the Motor Vehicles Act, 1988, especially the purposes with regard to insurance and registration are that the registered owner should get his vehicle insured. It is the duty of the person who is the registered owner to ensure that the provisions of the Motor Vehicles Act are followed and the vehicle is duly insured.

6. Section 50 of the Motor Vehicles Act reads as follows:-

“50. Transfer of ownership.—(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 under section 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 acknowledgment received by the transferee if he has sent an application in this behalf by registered post acknowledgment 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 transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.”

7. An obligation is cast upon the owner of any vehicle to inform the registering authority within 14 days of the transfer of vehicle along with all the necessary documents that some transfer of the vehicle has been made. In case, the vehicle was originally registered outside the State and is brought into another State,

then the period is 45 days. There is an obligation cast on the transferee also in terms of Section 50 sub-section (b) to report the matter of the transfer to the registering authority. The question is what would be the effect if the transferee does not inform the registering authority and does not get the vehicle transferred in the name of the transferee.

8. The Hon'ble Supreme Court considered a similar point in ***Dr. T.V. Jose v. Chacko P.M. [2001 ACJ 2059 (SC)]***. In that case, the accident occurred on 9.4.1987. The appellant claimed that he had sold the car on 7.5.1986 to one 'M', 'M' had then sold the car on 12.5.1986 to one 'A'. On 15.8.1986, 'A' sold the car to 'G' and on 18.8.1986, 'G' sold the car to Roy Thomas. It was, thus, claimed that on the date of the accident the car belonged to Roy Thomas but on the registration certificate the name of the appellant continues to be shown as owner. The Apex Court in para 10 held as follows:-

“10. We agree with Mr. Iyer that the High Court was not right in holding that the appellant continued to be the owner as the name had not been changed in the records of R.T.O. There can be transfer of title by payment of consideration and delivery of the car. The evidence on record shows that ownership of the car had been transferred. However, the appellant still continued to remain liable to third parties as his name continued in the records of R.T.O. as owner. The appellant could not escape that liability by merely joining Roy Thomas in these appeals. Roy Thomas was not a party either before M.A.C.T. or the High Court. In these appeals

we cannot and will not go into the question of inter se liability between the appellant and Roy Thomas. It will be for appellant to adopt appropriate proceedings against Roy Thomas if in law, he is entitled to do so.”

9. This matter, in fact, stands settled by the Supreme Court in ***P.P. Mohammed v. K. Rajappan, [2003 ACJ 1595 (SC)]***. The Apex Court considered the earlier judgments in ***Rajasthan State Road Trans. Corporation v. Kailash Nath Kothari and Dr. T.V. Jose v. Chacko P.M. [2001 ACJ 2059 (SC)]*** and held as follows:-

“4. These appeals are filed by the appellant. The insurance company has chosen not to file any appeal. The question before this Court is whether by reason of the fact that the vehicle has been transferred to respondent No. 4 and thereafter to respondent No. 5, the appellant got absolved from liability to the third person who was injured. This question has been answered by this Court in case of Dr. T.V. Jose v. Chacko P.M. 2001 ACJ 2059 (SC), wherein it is held that 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 the R.T.O. records, from liability to a third person. We are in agreement with the view expressed therein. Merely because the vehicle was transferred does not mean that the appellant stands absolved of his liability to a third person. So long as his name continues in R.T.O. records, he remains liable to a third person.

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8. The above said observation is in the context of this question. All that was being

considered in this case was the rights of the original owner vis-a-vis those of the transferee. Also the final decision is based on the terms of the contract between the parties. Therefore, they cannot be drawn out of the context. It will accordingly have to be held that the appellant as the person, in whose name registration continues, will remain liable to a third person. However, the person in actual possession would also be liable.”

10. The law, therefore, is now clear that both the de facto owner as well as the owner shown as such in the registration certificate are liable so far as third parties are concerned. Therefore, in a case where the vehicle has been transferred but the parties have not cared to follow the procedure laid down in Section 50, the original owner who has transferred the vehicle but has not cared to inform the registering authority of such transfer continues to be liable to pay the compensation. However, this does not relieve the person who is actually liable to pay the compensation to do so. The purpose of the law is to protect the rights of third parties and, therefore, both the registered owner as well as the de facto owner would be liable to pay the compensation.

11. However, I am clearly of the view that the transferee also cannot absolve himself from the liability. As far as the third parties are concerned, they can claim compensation from either the transferor or the transferee. In this case, the transferee Smt. Jyotshna Paul has not denied the fact that such document had been executed. Her case is that the said document has not been acted upon finally.

12. This is a matter not to be decided in these proceedings and, therefore, though I dismiss the appeal, I also hold that the transferee Smti. Jyotshna Paul will also be jointly and severally liable. As far as the *inter se* liability between Smti. Jyotshna Paul and the present appellant is concerned, that can be subject matter of a separate litigation between them. Therefore, if the appellant satisfies the award, he may if so advised file proceedings to recover the said amount from Smt. Jyotshna Paul in terms of the agreement entered into between them in accordance with law.

13. The appeal is disposed of in the aforesaid terms.

14. Send down the lower court records forthwith.

CHIEF JUSTICE