

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

15 FIRST APPEAL NO. 1100 OF 2012

GULAN SAKHARAM JADHAV AND ORS

VERSUS

CHANDRASHEKHAR SUDAM CHALAK AND ORS

...

Advocate for Appellants : Mr. Chavan Sudhir K.

Advocate for Respondent No.1 : Mr. P. K. Ippar h/for
Mr. S . J. Salunke

Advocate for Respondents :

WITH

17 FIRST APPEAL NO. 382 OF 2013

WITH FA/383/2013 WITH FA/384/2013 WITH FA/385/2013 WITH
FA/386/2013 WITH FA/387/2013

DHANABAI LALU JADHAV

VERSUS

CHANDRASHEKHAR SUDAM CHALAK AND ORS

...

Advocate for Appellant : Mr. Chavan Sudhir K.

Advocate for Respondent No.2 : Mr. Mahendra B. Kolpe

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. The present appellants are claimants. All the claim petitions under appeals are dismissed. The main reason for dismissal of the claim petitions is that on the date of accident, owner of the vehicle, who is added as party, had already transferred the said vehicle in favour of third party and third party was

not added as party to the proceedings. In the present case, the said person is added as party respondent.

2. I have heard Mr.Chavan, learned counsel for the appellants. He submits that the present respondent No.1 in these appeals is a registered owner of the vehicle and one who is registered owner on the date of accident, is liable to pay compensation. Learned counsel has relied on the judgment of the Apex Court in the case of **Pushpa alias Leela and others Vs. Shakuntala, reported in AIR 2011 SUPREME COURT 682.**

3. The learned counsel for respondent No.1 has relied on the judgment of Apex Court in the case of **Rajasthan State Road Transport Corporation Vs. Kailash Nath, reported in 1997 (7) SCC 481.**

4. Admittedly, the transferee of the vehicle was not a party before the tribunal. When the application was made for transfer is not a matter of record. The order of transfer of R.T.O. is placed on record. All these would be relevant for considering the liability of a person.

5. As respondent No.3 i.e. transferee of vehicle, was not party before the Tribunal, it would be appropriate to remit the present matters to the Tribunal. The transferee of the vehicle i.e. present Respondent no.3 shall be added as party respondent by the claimant to the claim petition, filed under section 166 of the Motor Vehicles Act. It is not necessary to issue fresh notice to the said added party, as the added party is represented by the learned counsel in the present proceedings.

6. In the light of above, I pass following order:

- i. The impugned judgment and awards are quashed and set aside.
- ii. The matter is relegated before the Motor Accident Claim Tribunal, Osmanabad. The parties shall appear before the Tribunal in the respective Motor Accident Claim Petitions on 05.10.2015.
- iii. As the date for appearance is already given, it is not necessary to issue notice to Mr. Chandrashekhar Sudam Chalak and Abasaheb Dhondiram Chavan as they are already represented before the Court.

- iv. Respondent No.3 Ambasaheb shall file his say within one month from the date of appearance.
- v. Considering the fact that the matter is remitted back to the Tribunal, the Tribunal shall endeavour to dispose of the proceedings expeditiously, preferably within 9 months from the date of appearance of the parties.
- vi. The parties are entitled to adduce additional evidence.
- vii. The Motor Accident Claim Petitions, shall be disposed of on their own merits.
- viii. Record and proceedings be sent back immediately.
- ix. The First Appeals are accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC