

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.484 OF 2015

Nanasaheb Dinkar Bhosale

.. Applicant

Versus

Smt. Leelawati Sonyabapu Salunke
and others

.. Respondents

Mr.Jeevan R. Patil, Advocate h/f Mr.Gulab B. Rajale,
Advocate for the appellant

Mr.B.R.Jaybhaye, Advocate for respondent No.3

Mr.S.V.Mundhe, Advocate for respondent No.1

CORAM : A.V.NIRGUDE, J

DATED : 22.08.2016

P.C. :-

1. This appeal challenges judgment and award dated 22.10.2013 passed by the learned Member, M.A.C.T., Shrirampur, Dist. Ahmednagar in M.A.C.P. No.227 of 2005.

2. The facts of this case are rather peculiar and in short, can be stated as under:-

3. Appellant Nanasaheb Dinkar Bhosale was admittedly registered owner of the motorcycle in question which met with an accident on 07.01.2005 causing serious injuries to one Sandip, aged 22 years who died subsequently during treatment on 17.01.2005.

4. The vehicle was driven by respondent Ravindra. After the accident took place it was revealed that the vehicle was not insured at all. As per RTO record Nanasaheb was owner of the vehicle when the claim was filed. Ravindra- the rider of the vehicle and registered owner Nanasaheb were made party. Nanasaheb in defence stated that he had already sold the vehicle in 2003 to one Vijay Pawar and therefore he was not concerned with the accident.

5. In turn Vijay took a defence that he had sold the vehicle to one Rashid and it was revealed further that this Rashid had sold the vehicle to Ravindra who caused the accident.

6. The main question that arises in this appeal is whether registered owner Nanasaheb can escape his liability of payment of compensation under the provision of Motor Vehicle Act. The Answer is in negative. Section 2 (30) defines the term "Owner" of Motor Vehicle Act, 1988. It reads as under:

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

7. Having regard to this definition it is clear that the appellant Nanasaheb was still the owner of the vehicle even after he transferred the vehicle to a third party and on the day of accident in 2005. It is settled law that the person named in the registration certificate is presumed to be the owner of the vehicle. The procedure for transfer of ownership of the motor vehicle is explained in Section 50 of the Act. section-50 reads as under:

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

(a) the transfer 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 Sec. 48; or

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

(I) the receipt obtained under sub-section (2) of Sec. 48; or

(II) the postal acknowledgment received by the transferor if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in Sec. 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;

8. As per sub-section 1, the transferrer is under obligation to inform the facts of the transfer to registering authority. Even transferee is made liable to get his name registered within 30 days from the date of transfer. In this case neither transferee or Nanasaheb nor purchaser whose names are mentioned above made any effort to inform the transaction of transfer (Transfer/s) to the registering authorities at all. Such negligent owners of the vehicle obviously did not care to get the insurance cover extended. The vehicle was used on the road without any insurance cover from 2003 on words. In view of this it is clear that the appellant Nanasaheb is unable to escape his liability to pay the compensation amount.

9. He cannot take a defence that he had transferred the vehicle prior to the date of accident and, is not viable defence at all. It is not even available to me.

10. In view of this the first appeal stands dismissed.

[A.V.NIRGUDE, J.]