

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.NPD.No.226 of 2004
and
C.M.P.Nos.735 and 736 of 2004

M/s. Haridoss Bhagath and Company Private Limited,
240, Cross Cut Road,
Coimbatore - 641 012.

.. Appellant

.. Vs ..

1. K.Sakthivel
2. S.Balasubramanian
3. National Insurance Company Limited,
City Branch-II,
United Shopping Complex,
94/34, Dr.Nanjappa Road,
Coimbatore - 641 018.
4. A.Mohan

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Fair and Decretal order dated 17.10.2002 passed in M.C.O.P.No.61 of 1994 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge), Fast Track Court No.2, Coimbatore.

For Appellant : Mr.K.Govi Ganesan
For R-1 : Mr.V.Bhiman
For R-2 : Mr.G.Muniratnam
For R-3 : Mr.N.Vijayaraghavan
For R-4 : Dispensed with

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JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 17.10.2002 passed in M.C.O.P.No.61 of 1994 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge), Fast Track Court No.2, Coimbatore.

2. The facts of the case are as follows:-

On 22.11.1993 at about 13.00 hours, the claimant was riding on his moped bearing Registration No.TN-37-A-1341 on the North-South Mettupalayam road from South to North to see his sister. When he approached in front of the Head Office of Cheran Transport Corporation in Mettupalayam Road, Coimbatore, a Scooter driven by its driver in a rash and negligent manner dashed against him. As a

result of which, the claimant was thrown away and due to the accident, his right ankle was cut from leg to foot and also he sustained severe injuries. Claiming a sum of Rs.2,00,000/-, the claimant had filed a petition for compensation. The Tribunal, after considering the evidence adduced by both parties, finally awarded a sum of Rs.1,19,500/- towards compensation along with interest at 9% per annum and directed the respondents 1, 2 and 4 therein jointly and severally liable to pay compensation to the claimant. As against the said award passed by the Tribunal, the present appeal is preferred by the appellant/second respondent in the M.C.O.P.No.61 of 1994.

3. The learned counsel for the appellant would mainly contend that since the vehicle viz., Scooter bearing Registration No.TN-V-1595 was already sold to the fourth respondent herein, the Tribunal ought to have directed the fourth respondent herein to pay the entire compensation to the claimant. The Tribunal, without considering the said fact, erroneously allowed the petition as against the appellant and also directed the appellant to pay compensation to the claimant and hence, the award passed by the Tribunal has to be set aside and the appeal has to be allowed.

4. The learned counsel appearing for the third respondent/Insurance Company would contend that the registration of the vehicle is not transferred to the subsequent purchaser. It is further contended that the Tribunal, after appreciating the entire records, correctly passed order awarding compensation and there is no illegality or infirmity in the order of the Tribunal and hence, he prayed that the award passed by the Tribunal has to be confirmed and the appeal has to be dismissed.

5. This Court considered the submissions made by the learned counsel for the appellant and the learned counsel for the respondents 1 to 3 and perused the entire records.

6. In support of his contention, the learned counsel for the appellant has relied on a decision of the Hon'ble Supreme Court reported in **2001 (7) Supreme 257 (Dr.T.V. Jose v. Chacko P.M. Alias Thankachan & Ors.)**, wherein, at paragraph No.10, the Hon'ble Supreme Court has 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 RTO. 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 RTO as the owner. The appellant could not escape that liability by merely joining Mr Roy Thomas in these appeals. Mr.Roy Thomas was not a party either before MACT or the High Court. In these appeals, we cannot and will not go into the question of inter se liability between the appellant and Mr Roy Thomas. It will be for the appellant to adopt appropriate proceedings against Mr.Roy Thomas if, in law, he is entitled to do so."

7. It is admitted case of the learned counsel for the appellant that even though the vehicle was sold, registration of vehicle stands in the name of the appellant. In view of the above said circumstances, applying the above principles laid down by the Hon'ble Apex Court, this Court is of the considered view that the appellant is also liable to pay compensation to the claimant. After paying the amount to the claimant, the appellant is entitled to recover the amount from the purchaser of the vehicle. Hence, the appeal is liable to be dismissed.

8. In the result, the civil miscellaneous appeal is dismissed by confirming the judgment and decretal order dated 17.10.2002 passed

by the learned Additional District Judge, Fast Track Court No.2, Motor Accidents Claims Tribunal, Coimbatore, in M.C.O.P.No.61 of 1994. It is directed that the appellant is entitled to recover the amount from the purchaser of the vehicle, after paying the compensation amount to the claimant. Consequently, the connected miscellaneous petitions are closed. No costs.

17.11.2016

Internet : Yes
Jrl

To

1. The Additional District Judge,
Fast Track Court No.2,
Motor Accidents Claims Tribunal,
Coimbatore.
2. The National Insurance Company Limited,
City Branch-II,
United Shopping Complex,
94/34, Dr.Nanjappa Road,
Coimbatore - 641 018.

G.CHOCKALINGAM, J.

Jrl

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