

\$~R-438

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 8th November, 2017

+ **MAC APPEAL No. 1173/2011**

BIMLA

..... Appellant

Through: None.

versus

SANTOSH & ORS.

..... Respondents

Through: Ms. Kavita Tyagi for Mr.
Navneet Goyal, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On 05.05.2006, accident claim case (suit no. 517/2008) was instituted by the first respondent (claimant) seeking compensation on the ground that on 08.02.2006, she had suffered injuries upon being hit by maruti car bearing registration no. DBG 4152 (the car) statedly driven by the second respondent. She impleaded the appellant as the third respondent on the ground she was the owner of the car on the date of accident. During the course of inquiry, the appellant denied having any connection with the car claiming that she had already sold it for consideration on 03.10.2003 to one Surinder Lal, son of Lakhi Ram, Rangpuri. Evidence was led by her by examining herself as R3W1 on the strength of her affidavit (R3W1/A).

2. The tribunal, by judgment dated 23.07.2011, however, rejected the above said plea and held that the appellant along with the driver were jointly and severally liable to pay compensation.
3. The appeal at hand has challenged the above finding reiterating that the vehicle having been sold for consideration, the liability could not have been fastened against the appellant.
4. The appeal was put in the category of 'regulars', by order dated 14.01.2016. When it is called out, there is no appearance on behalf of the appellant. The matter has been heard with the assistance of the claimant through counsel and by perusal of the record.
5. This Court is of the view that the reasons set out by the tribunal rejecting the contention of the appellant do not call for any interference. The appellant had relied on delivery receipt (Ex.PW-1/A) purporting to show the delivery of the car to one Surinder Lal, son of Lakhi Ram. Concededly, there was no intimation given of such sale to the transport authority. Even if such statutory formality was to be ignored, reliance on document (mark RW1/C) as being an intimation, is found to be misplaced. It seems to be a document which is addressed by the appellant to no particular authority and, therefore, is more in the nature of self-serving. Curiously, the appellant also stated that even Surinder Lal, son of Lakhi Ram had sold the vehicle further for consideration to Raj Kumar. It is not explained by her as to how she would be privy to such further transaction or document pertaining thereto. The fact remains that she made no efforts to call in Surinder Lal to affirm the transfer of the vehicle to his control.

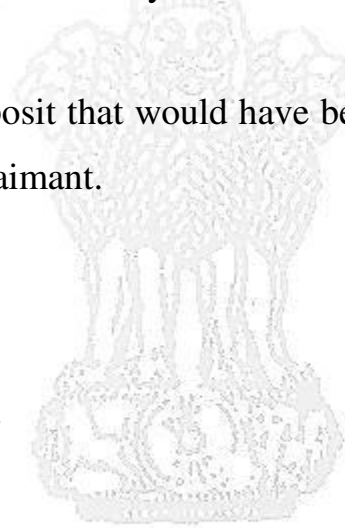
6. In above facts and circumstances, the appeal is found devoid of substance and is dismissed.

7. By order dated 23.12.2011, the appellant was directed to deposit 50% of the awarded amount with upto date interest with the Registrar General. By subsequent order dated 28.09.2012, Rs. 1,00,000/- out of such deposit was permitted to be released to the claimant. The balance lying in deposit with accrued interest shall also be released to the claimant in terms of the impugned judgment. For the remainder, the claimant will have the liberty to take out appropriate execution proceedings.

8. The statutory deposit that would have been made is forfeited as costs in favour of the claimant.

NOVEMBER 08, 2017
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R.K.GAUBA, J.



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