$~R-151

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

Decided on: 28th August, 2017

\+ MAC.APP. 640/2009 and CM APPL.18983/2009

MCF FINLEASE PRIVATE LIMITED ... Appellant

Through: Nemo.

versus

PUSHPA PAL & ORS. ..... Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

<u>JUDGMENT (ORAL)</u>

1. The first respondent is stated to have suffered injuries in a motor vehicular accident that occurred on 08.08.2006 when the scooter bearing registration No.DL-8S-AE-3154 on which she was moving came to be involved in a collision against Tata Indica car bearing registration No.DL-9CC-1376. She instituted accident claim case (Suit No.895/2008) on 12.09.2006 for compensation impleading the appellant herein as the second respondent, it being the registered owner of the said car with the averments that it was driven in a negligent manner by the second respondent herein. National Insurance Company Limited was impleaded as one of the party respondents before the Motor Accident Claims Tribunal (the Tribunal) on the averment that the vehicle was insured against third party risk with it.

The Tribunal held inquiry and, by judgment dated 28.10.2009, upheld the case for compensation on the principle of fault liability.

2. It appears that, there was no proof of any insurance policy and, thus, the said insurance company was not fastened with any liability. The Tribunal awarded compensation in the total sum of Rs.1,03,896/- holding the appellant and the said driver jointly and severally liable.

3. The appellant has taken the plea that it was not liable since it had sold the vehicle to the second respondent on 25.12.2004. This was sought to be proved by the evidence of its Director (R2W1) who produced, *inter alia*, delivery receipt (Ex.RW2/1) besides certain other documents relating to the release of the car after the accident on *superdari.* The tribunal, however, declined to grant any benefit to the appellant on that basis, for the reason it was admitted by R2W1 that there was no intimation to the registering authority about the sale of the vehicle. Since the vehicle had continued to be registered in the name of the appellant, it was held to be liable.

4. The appeal at hand questions the above decision of the tribunal as also the computation of compensation thereby granted. Reference is also made in the appeal to the omission on the part of the claimant to prove that she was holding a valid or effective driving licence.

5. The absence of clear proof as to the driving licence of the first respondent is inconsequential, in as much as the evidence clearly brought out negligence on the part of the second respondent (driver) in driving the car which led to the accident. Since the appellant's witness had admitted that there was no intimation to the registering

authority about sale, the vehicle having continued to be registered in its name, the finding returned by the tribunal holding the appellant liable, jointly and severally cannot be questioned.

6. It is noted that the claimant had suffered grievous injuries in the accident and remained under treatment for a prolonged period. The award granted by the tribunal cannot be said to be excessive in any manner.

7. The appeal is, thus, found devoid of substance and is dismissed.

8. By order dated 23.12.2009, the appellant had been directed to deposit Rs.75,000/- (Rupees Seventy Five Thousand Only) with the Registrar General of this Court as a pre-condition to the stay against the execution of the award. The said amount of Rs.75,000/- with the statutory deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) were directed to be put in the fixed deposit. Both the said deposits with corresponding interest shall be released to the claimant (first respondent) towards satisfaction of her claim under the award. For the balance, she is at liberty to take out appropriate proceedings before the tribunal.

9. The appeal along with accompanying application stands disposed of in above terms.

R.K.GAUBA, J.

AUGUST 28, 2017
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