



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.121 of 2018

and

C.M.P. (MD)No.1768 of 2018

Ravi ... Appellant/2nd Respondent

Vs.

1.Sivanthi ... 1st Respondent/Petitioner

2.Shanmuga Vadivel ... 2nd Respondent/1st Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 09.12.2014 made in M.C.O.P.No.513 of 2009 on the file of the Motor Accident Claims Tribunal, III Additional Subordinate Court, Tiruchirappalli.

For Appellant : Mr.G.S.Asok Adhithyan

For Respondents : Mr.N.Sudhagar Nagaraj for R.1

Mr.C.Jaganathan for R.2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal, III Additional Subordinate Court, Tiruchirappalli, in M.C.O.P.No.513 of 2009 dated 09.12.2014.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of injury and the tribunal has awarded Rs.1,88,533/-, to be paid by the appellant herein/second respondent, who is the owner of the vehicle. The only ground emphasized by the appellant is on liability, i.e., the appellant has already sold the vehicle to some third party and therefore, he is not liable to pay any compensation.



4. This point has been answered by a catena of judgments stating that the registered vehicle owner is liable to pay compensation. In this context, the Supreme Court, in its latest verdict reported in 2018 (1) TN MAC 157 (SC), has held as follows:

"6. The expression 'Owner' is defined in Section 2 (30) of the Act, 1988, thus:

"2(30). 'Owner' means a person in whose name a motor vehicle stands 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."

The person in whose name a motor vehicle stands registered is the Owner of the vehicle for the purposes of the Act. The use of the expression 'means' is a clear indication of the position that it is the registered Owner who Parliament has regarded as the Owner of the vehicle. In the earlier Act of 1939, the expression 'Owner' was defined in Section 2(19) as follows:

"11. ...2(19) 'Owner' means, where the person in possession of a Motor vehicle is a minor, the guardian of such minor, and in relation to a Motor vehicle which is the subject of a Hire Purchase Agreement, the person in possession of the vehicle under that Agreement."

Evidently, Parliament while enacting the Motor Vehicles Act, 1988 made a specific change by recasting the earlier definition. Section 2(19) of the earlier Act stipulated that where a person in possession of a motor vehicle is a minor the guardian of the minor would be the owner and where the motor vehicle was subject to a Hire Purchase Agreement, the person in possession of the vehicle under the agreement would be the owner. The Act of 1988 has provided in the first part of Section 2(30) that the owner would be the person in whose name the motor vehicle stands registered. Where such a person is a minor the guardian of the minor would be the owner. In relation to a motor vehicle which is the subject of an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement would be the owner. The latter part of the definition is in the nature of an exception which applies where the motor vehicle is the subject of a hire purchase agreement or of an agreement of lease or hypothecation. Otherwise the definition stipulates that for the purposes of the Act, the person in whose name the motor vehicle stands registered is treated as the owner.

7. Section 50 deals with the procedure for transfer of ownership, and provides as follows:



"50. Transfer of ownership.-(1) Where the ownership of any motor vehicle registered under this Chapter is transferred -

(a) the transferor 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 section 48; or

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

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

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

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

(2) Where-

(a) the person in whose name a motor vehicle stands registered dies, or

(b) a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of, Government, the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his name, to the



registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government.

(3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2) (hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be taken against him under section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5):

Provided that action under section 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount.

(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 177.

(5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2).

(6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of ownership to be entered in the certificate of registration.

(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority, if it is not the original registering authority.""

5. Admittedly, the registered owner of the vehicle is the appellant even at the time of accident and therefore, this Court is not inclined to interfere with the order passed by the tribunal.

6. Since the sole ground, on which the appeal was preferred, lacks merits, this civil miscellaneous appeal is liable to be dismissed and the same is accordingly dismissed. The order of the tribunal stands confirmed. The appellant/second respondent is directed to deposit the entire award amount with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited. On such



deposit, the claimant is permitted to withdraw the entire amount with accrued interests and costs, without filing any formal application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The III Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.

COPY TO:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.N.Sudhagar Nagaraj, Advocate SR.No. 61108

+1cc to M/S.Veera Associates, Advocate SR.No. 60894

C.M.A (MD) .No.121 of 2018
11.04.2018

gk

JM/JC/SAR 4/11.05.2018/5P/6C