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

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Decided on: 15.10.2019

+ MAC.APP. 528/2019 & CM APPL. 21317/2019

POOJA & ORS

..... Appellants

Through: Mr. S.N. Parashar, Advocate.

versus

TARUN KUMAR @ SAHIL & ORS

..... Respondents

Through: Mr. Idresh Ahemad, Advocate for R-1
alongwith R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 11.10.2018 passed by the learned MACT in MACT Case No. 476396/16 on the ground that respondent no. 3, the financier of the vehicle, has been discharged from all liability. Admittedly, the offending vehicle was initially owned by respondent no. 2, viz. Mr. Arpit, since he defaulted in payment as per the Hire Purchase Agreement, the vehicle was repossessed and subsequently resold in an auction by respondent no. 3. It is the appellant's case that on the date of the accident, the said offending vehicle was owned by respondent no. 6.

2. Be that as it may, in either of the circumstances, the vehicle was firstly owned by respondent no. 2, Mr. Arpit and subsequently by

respondent no. 6 but respondent no. 3, the financier, was evidently not the owner of the vehicle when the said accident happened. The impugned order has dealt with the issue as under:

“58. Whereas on the hand, Ld. Counsel for the respondent No.3 who was the financier of the abovesaid offending vehicle has relied upon the judgment dated 06.02.2018 passed in Civil Appeal No. 1427 of 2018 arising out of SLP (C) No. 18943 of 2016 titled as Naveen Kumar vs. Vijay Kumar & ors wherein, the Hon'ble Supreme Court of India in para no. 12 thereof has held as under: -

"12. The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression 'owner' in Section 2(3), it is the person in whose name the motor cycle stands registered who for the purpose of the Act, would be treated as the 'owner'. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability Parliament has consciously introduced the definition of the expression 'owner' in Section 2(30), making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty A claimant for compensation ought not be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent-was the 'owner' of the vehicle involved in

the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi.

59. In the case in hand, it is true that there is a successive trail of transfers of the offending vehicle once the offending vehicle was repossessed by the respondent No.3 but admittedly, the registered owner of the offending vehicle was the respondent No.2 on the date of the accident. The copy of the RC of the offending vehicle is there on record which has been filed by the IO alongwith the DAR to show that the registered owner of the offending vehicle was the respondent No.2.

60. As per the own admission of R3W1, the witness examined by the respondent No.3, the respondent No.3 repossessed the vehicle from the respondent no.2 when allegedly he failed to pay the EMIs of the loan amount. Admittedly, the vehicle was under hypothecation with the respondent No.3 under a hire purchase agreement. Admittedly, the offending vehicle was sold in auction to respondent No.4 by respondent No.3. It subsequently changed hands and ultimately, the respondent No.6 was the present owner when the accident in question took place. But the fact remains that on the date of the accident, the registered owner of the offending vehicle was the- respondent No.2. From the testimony of PWs, the cross-examination of R1W1, from the contents of the DAR, it is apparently clear that the offending vehicle was being driven by respondent No.1 in a rash and negligent manner on the date of the accident and it was the respondent No.1 who caused the accident in question. The respondent No.2 has failed to appear despite the service and he has neither filed on record any reply nor he has led any evidence.

61. But, as stated herein above, the fact remains that the respondent no.2 was the registered owner of the offending vehicle on the date of the accident. In view of the law laid down by the Hon'ble Supreme Court of India in the authority

titled as Naveen Kumar Vs. Vijay Kumar and others(supra), the registered owner of the offending vehicle is liable to pay the compensation and not the subsequent transferees.”

3. Quite clearly, the owner of the vehicle on the date of the accident was not respondent no. 3-the financier, therefore, it cannot be held liable for any indemnification. The contention of the learned counsel for the appellant that since respondent no. 6 was the actual owner on the date of the accident the latter should be made liable, is untenable because respondent no.6 had not yet been registered as the owner of the vehicle, albeit the vehicle had been sold to him by the financier. The registered owner at the time of the motor vehicular accident was respondent no. 2, accordingly the order of the learned Tribunal calls for no interference.

4. The appeal is without merit and is accordingly dismissed.

OCTOBER 15, 2019

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NAJMI WAZIRI, J

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