

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal No.1212 of 2014**

(Arising out of award dated 26.08.2014 passed in Claim Case No.52 of 2013 by the Additional Member, Ramanujganj to the Court of Additional Motor Accident Claims Tribunal, Ramanujganj, District Balrampur-Ramanujganj, Chhattisgarh)

Santosh Kumar son of Ramkeshwar Khairwar, aged about 26 years, resident of Village Basera, Police Station Trikunda, District Balrampur-Ramanujganj, Chhattisgarh

---- Appellant**Versus**

Smt. Tetari Devi widow of Surendra Pal, aged about 37 years, resident of Village Bagra, Tahsil and Police Station Ramanujganj, District Balrampur-Ramanujganj Chhattisgarh

---- Respondent

For Appellant : Shri Rahul Mishra, Advocate.
For Respondent : Shri A.K. Prasad, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board**Per P. R. Ramachandra Menon, Chief Justice****04.08.2020**

1. Fixation of liability to an extent of Rs.2 Lacs with interest as compensation payable to the Respondent-Claimant in connection with the accident occurred on 11.10.2011 involving the motorcycle ridden by the Appellant is the subject matter of challenge in this appeal.
2. On 11.10.2011, at about 4.30 PM, a minor boy aged about 7 years, by name, Ajit Pal (son of the Respondent in this appeal) was proceeding along the road, when he was knocked down by the motorcycle bearing registration No.CG-16/D/4700 ridden by the Appellant, causing fatal injuries, ultimately leading to his death. This led to the claim petition preferred before the Claims Tribunal by the Respondent-Mother claiming amounts under various heads.

3. The claim was sought to be resisted by the Appellant mainly on the quantum and negligence. It was also contended that the Appellant was not the registered owner of the motorcycle and since the registered owner had not been impleaded in the party array, the claim was not liable to be entertained. The Appellant, who was the sole Respondent, was sought to be relieved in the said circumstance.
4. On completion of trial, based on the materials brought on record, the Claims Tribunal held that the accident was only because of the negligence on the part of the Appellant, who was riding the motorcycle. After considering the other relevant aspects, the Claims Tribunal held that the Claimant was entitled to be paid a compensation of Rs.2 Lacs and it was accordingly awarded. The liability was mulcted on the rider of the motorcycle i.e. the Appellant herein; correctness of which is put to challenge in this appeal.
5. Heard Shri Rahul Mishra, the learned counsel appearing for the Appellant at length, besides Shri A.K. Prasad, the learned counsel representing the Respondent-Claimant.
6. The learned counsel for the Appellant points out that, insofar as the claim petition was filed without impleading the registered owner of the motorcycle in the party array, no liability ought to have been fastened on the Appellant, who was only riding the motorcycle. It is also contended that there was no negligence on the part of the Appellant and that he came to be acquitted in the criminal case, which was registered against him in connection with the accident.
7. After hearing both the sides, we find that there is no dispute at all with regard to the accident occurred on 11.10.2011 and as to involvement of

the motorcycle, which was being ridden by the Appellant. The minor boy who sustained injuries finally succumbed to the same and took his last breath shortly thereafter on 19.10.2011. There is no case for the Appellant that, the vehicle was covered by any valid insurance policy. When the Appellant contended before the Claims Tribunal that the registered owner was somebody else, he failed to mention the name of the owner or such other person who was liable to satisfy the claim on his behalf, because of the negligent riding of motorcycle by the Appellant.

8. It is settled law that the registered owner need not be the actual owner and that sale of the motorcycle, being a movable property will be completed on payment of the sale consideration and transferring of the possession; though, some procedural formalities have to be completed in connection with the sale of a motor vehicle in terms of relevant provisions of the Motor Vehicles Act and Rules. In the instant case, since the Appellant failed to mention the name of the alleged owner of the motorcycle (if it was somebody else) who was liable to satisfy the claim on behalf of the Appellant (who was riding the vehicle) and further since the involvement of the Appellant and the motorcycle ridden by him causing fatal injuries to the deceased boy are not disputed, the primary liability is upon the Appellant himself. This being the position, the Claims Tribunal is perfectly justified in arriving at the finding, fixing the liability upon the Appellant, which is well supported by the reasons given.
9. With regard to the contention of the Appellant as to the disputed negligence on his side or as to the alleged contributory negligence on the part of the deceased boy, we do not find any reliable evidence as adduced from the part of the Appellant to vary/modify the finding recorded by the Claims Tribunal. The mere reason that the Appellant has been

acquitted in the criminal case charged against him, by itself, is not enough to hold that he was not negligent in riding the motorcycle. To make it more clear, there is no case for the Appellant that the criminal case registered against him and ended up in acquittal was a false and frivolous one. The acquittal in the criminal case for the failure on the part of the prosecution in substantiating the offence 'beyond any reasonable doubt', so as to have the accused punished in accordance with the relevant provisions of law, stands on a different footing. In the said circumstance, we repel the contention raised by the Appellant disputing the negligence with reference to the acquittal in criminal case. We are also of the view that the quantum of compensation awarded by the Claims Tribunal is quite reasonable and not liable to be interdicted on any tenable ground.

10. In the above facts and circumstances of the case, we do not find any merit in the appeal. The appeal fails. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge