

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR**M. A. (C) No. 1007 of 2014**

Lekhram S/o Khublu, aged about 27 years, R/o village Thathari, Police Station Baradwar, Tahsil Jaijaipur, Civil and Revenue District Janjgir-Champa, Chhattisgarh

---- Appellant**Versus**

1. Phool Bai @ Santoshi, W/o Vishal Sidar, aged about 22 years,

(Appeal is treated as dismissed against Respondent No.1 for non-compliance of Hon'ble Court's order dated 11.02.2016 as per endorsement dated 17.06.2016)

2. Sahodra Bai, W/o Bundram, aged about 42 years,

3. Bundram, S/o Daulatram, aged about 43 years,

All are R/o village Salni, Dhanwarpara, Tahsil Jaijaipur, District Janjgir-Champa, Chhattisgarh

4. Padma Dewangan, W/o Vijay Kumar, aged about 27 years, R/o village Thathari, Police Station Baradwar, Tahsil Jaijaipur, District Janjgir-Champa, Chhattisgarh

---- Respondents

For Appellant	: Shri Dharmesh Shrivastava, Advocate
For Respondents	: None

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

Judgment on Board**Per Parth Prateem Sahu, Judge****05.10.2020**

1. Appellant/non-applicant No.2 has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V. Act') challenging the award dated 28.06.2014 passed by the Second Additional Motor Accident

Claims Tribunal, Sakti, District Janjgir-Champa, Chhattisgarh (hereinafter referred to as 'Claims Tribunal') in Motor Accident Claim Case No.32 of 2013 whereby learned Claims Tribunal allowed the claim application in part and awarded a total sum of Rs.4,62,000/- as compensation.

2. Brief facts relevant for disposal of this appeal, are that, on 03.09.2013, at about 11.30 am, non-applicant No.2 while driving his four wheeler (*Chhota Hathi*) bearing No.CG-11/B/1890 rashly and negligently, dashed the motorcycle of Vishal and Prakash, due to which, Vishal suffered grievous injuries over his person and died on spot. The accident was reported to concerned Police Station, based on which, Crime No.203 of 2013 was registered against non-applicant No.2 for the offence punishable under Sections 279, 337 and 304A of IPC.
3. Claimants/respondents No.1 to 3 filed claim application under Section 166 of the M.V. Act seeking compensation of Rs.9,20,000/- on account of untimely motor accidental death of Late Vishal. Claimant No.1 is widow, claimant No.2 is mother and claimant No.3 is father of the deceased.
4. Non-applicants No.1 and 2 submitted their reply separately and denied the pleadings made in the claim application. It was pleaded that Late Vishal was not doing any work nor he was having any income; Vishal suffered accidental injuries on account of his own negligence; non-applicant No.2 was

not driving the offending vehicle rashly and negligently nor caused accident. It was further pleaded that non-applicant No.1 was a registered owner of offending vehicle; offending vehicle was sold out to non-applicant No.2 on 19.06.2013 and possession was also given to non-applicant No.2; non-applicant No.2 is having entire liability with regard to offending vehicle.

5. Upon appreciation of pleadings, evidence and material placed on record by the respective parties, learned Claims Tribunal held that accident took place on account of rash and negligent driving of offending vehicle by non-applicant No.2, in which, Vishal died, awarded a sum of Rs.4,62,000/- as total compensation to the claimants and held non-applicant No.2 liable to satisfy the amount of compensation.
6. Shri Dharmesh Shrivastava, learned counsel for the appellant submits that appellant/non-applicant No.2 is not a registered owner of offending vehicle. He further submits that appellant was driving the vehicle in the capacity of driver, under the M.V. Act, liability to satisfy the amount of compensation is upon the registered owner. He further submits that learned Claims Tribunal erred in fastening liability upon appellant/non-applicant No.2 exclusively and exonerating non-applicant No.1. It is contended that claimants No.2 and 3 i.e. parents of deceased are aged persons, having their own source of income and they are not

dependant upon the deceased. It is further contended that claimants have failed to prove the income of deceased; deduction and multiplier has been applied contrary to the law laid down by Hon'ble Supreme Court.

7. No one appeared on behalf of Respondents No.2 to 4, though served.
8. We have heard learned counsel for the appellant and perused the record carefully.
9. So far as respondent No.1/claimant No.1/widow of deceased Vishal is concerned, the appeal has been treated to be dismissed for non-compliance of Hon'ble Court's order dated 11.02.2016 against her.
10. In view of above, now the challenge is only with regard to the amount awarded to respondent/claimant No.2 as Rs.1,00,000/- and Rs.12,000/- to respondent/claimant No.3.
11. To appreciate the submission made by learned counsel for the appellant, we have gone through the record of claim case. Appellant/non-applicant No.2 in its reply submitted before learned Claims Tribunal admitted that he had purchased the offending vehicle on 19.06.2013 and also taken possession of the same. Paragraph-11 of the reply of non-applicant No.2 is extracted below for ready reference :

“11. आवेदन पत्र की कंडिका 16 के सम्बन्ध में
कथन है कि छोटा हाथी क्रमांक CG 11 AB

1890 का पंजीकृत स्वामी अनावेदक क्रमांक 1
पदमा देवांगन पति विजय कुमार ग्राम ठठारी है
परन्तु उपरोक्त वाहन को यह अनावेदक
पंजीकृत स्वामी से दिनांक 19.06.2013 को
खरीद कर उसका कब्जा प्राप्त कर चुका है।”

12. Non-applicant No.1/respondent No.4 in her reply has very categorically pleaded that she was registered owner of offending vehicle, but she had sold the offending vehicle on 19.06.2013 to non-applicant No.2/appellant. She entered into witness box before learned Claims Tribunal and produced the agreement of sale of offending vehicle as Ex.D/1. Appellant/non-applicant No.2 has not entered into witness box before learned Claims Tribunal.
13. Non-applicant No.1 in the pleadings and evidence has admitted that she is registered owner of offending vehicle, but she had executed the sale agreement and handed over the possession of offending vehicle on 19.06.2013 to non-applicant No.2. Seizure memo (Ex.P/7) would show that offending vehicle was registered in the name of respondent No.4/non-applicant No.1.
14. The issue with regard to transfer of offending vehicle on sale by registered owner of the vehicle through agreement has been dealt with by Hon'ble Supreme Court in case of **Naveen Kumar v. Vijay Kumar and Others** reported in

(2018) 3 SCC 1, in which, Hon'ble Supreme Court has held thus :

“13. 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(30), it is the person in whose name the motor vehicle stands registered who, for the purposes 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 1939 Act. 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 to

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 *HDFC Bank Ltd. v. Reshma*, (2015) 3 SCC 679 and *Purnya Kala Devi v. State of Assam*, (2014) 14 SCC 142.

14. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In *T.V. Jose v. Chacko P.M.*, (2001) 8 SCC 748, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate.

The mandate of the law must be fulfilled.”

15. The Hon'ble Supreme Court while considering the provisions of M.V. Act, its object and earlier judgments passed by the Hon'ble Court on the issue, in categorical terms held that “owner within the meaning of Section 2(30) i.e. registered owner is liable to compensate the claimants”.
16. In view of above, the liability to satisfy the amount of compensation shall be upon the registered owner. As on the date of hearing of this appeal, the liability of payment of amount of compensation with respect to respondents/ claimants No.2 and 3 is only under consideration i.e. amount of compensation of Rs.1,00,000/- and Rs.12,000/- with interest will now be paid by respondent No.4/non-applicant No.1 i.e. registered owner of offending vehicle. The appeal against amount of compensation while apportioning and given in the share of respondent/claimant No.1 i.e. Rs.3,50,000/- has already been dismissed on account of non-compliance of Court's order dated 11.02.2016, therefore order passed by this Court will not govern the compensation awarded to respondent No.1.
17. So far as the earning and income assessed by learned Claims Tribunal as well as quantum of compensation awarded to the claimants is concerned, on the date of accident, deceased was aged about 23 years. In pleadings,

it is mentioned that he is doing the work of Mason and agricultural work, for which, he is earning Rs.5,000/- per month. Similarly, in evidence also, claimant No.1-Phool Bai @ Santoshi has stated about the income and nature of work of deceased. Her evidence with regard to occupation and income of deceased remained unshaken.

18. Learned Claims Tribunal has assessed the income of deceased as Rs.3,000/- per month. Taking into consideration the date of accident i.e. 03.09.2013, the income assessed by learned Claims Tribunal cannot be said to be on higher side. Claimant/respondent No.1 is wife of deceased and claimants/respondents No.2 and 3 are parents of deceased, who were said to be dependant upon the income of deceased and deduction of 1/3rd applied by learned Claims Tribunal as well as applying multiplier of 18 where the deceased was aged about 23 years is perfectly within the four corners of law laid down by Hon'ble Supreme Court in case of **Sarla Verma (Smt.) v. Delhi Transportation Corporation** reported in **(2009) 6 SCC 121**.
19. In view of above, we do not find any error in assessing the income of deceased and applying deduction as well as multiplier while calculating the amount of compensation, hence, the submission of the learned counsel for the appellant is not sustainable and is hereby repelled.

20. For the foregoing reasons, the liability to satisfy the amount of compensation so far as it relates the share of compensation apportioned by learned Claims Tribunal in favour of claimants/respondents No.2 and 3 i.e. parents of the deceased shall now be satisfied by respondent No.4/non-applicant No.1 i.e. registered owner of offending vehicle.
21. In the result, the appeal filed by the appellant/non-applicant No.2 is allowed in part and the impugned award passed by the Claims Tribunal is hereby modified to the extent as indicated herein-above. However, as there is an admission by the appellant/non-applicant No.2 that he has purchased the vehicle and accident took place while the appellant was driving the vehicle after purchasing it, respondent No.4/non-applicant No.1 will be entitled to recover the amount of compensation paid by her from the appellant/non-applicant No.2 in accordance with law.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge