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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3077 of 2007

1.Govindaraj ... Appellant / 1st Respondent

..Vs..

1.Sathya .. 1st Respondent / 3rd Petitioner

2.Murugavel

3.Chinnappan .. Respondents 2 & 3 / Respondents 2 & 3

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 16.03.2007 made in M.C.O.P.No.290 of 2001 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.Suganthan
For M/s.Manoharan

For Respondents : Notice served - No Appearance

JUDGMENT

Challenging the liability in the judgment and decree, dated 16.03.2007 in MCOP.No. 290 of 2001 passed by the tribunal awarding compensation of Rs.1,89,000/- along with interest at the rate of 7.5% per annum, the appellant who is the 1st respondent before the tribunal has preferred the present appeal.

2. It is the case of the claimant/1st respondent here is that appellant herein that on 07.06.2000 at about 8.00PM while the deceased Kamala along with one Chellammal as a pedestrian walking on the left northern side of Elampillai to Chinnappampatto road near Karikadai bus stop, all of sudden a Motorcycle bearing registration number MSS 6182 hit against the deceased. Due to the sudden impact, the deceased sustained



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severe injuries all over the body and admitted in the Government head Quarters Hospital, Salem where she was declared dead. Initially the legal heirs of the deceased namely husband, son and minor daughter have filed the claim petition for compensation for Rs.5,00,000/- Pending claim petition, 1st & 2nd claimants namely husband and son died, hence the compensation of Rs.1,89,000/- was granted infavour of the 3rd claimant/minor daughter, who was subsequently declared as major.

3. The tribunal on considering the evidence and documents, has granted compensation of Rs.1,89,000/- and directed to pay the said compensation equally by the appellant and the 2nd respondent herein.

4. Before the tribunal, on the side of the claimants, three witnesses P.W.1 to P.W.3 were examined and seven documents Ex.A1 to A7 were marked. On the side of the respondents five witness were examined and four documents Ex.B1 to B4 were marked.

5. The learned counsel appearing for the appellants submitted that the appellant herein is neither the driver nor owner of the offending vehicle bearing registration MSS 6182. Absolutely there is no material to show that the appellant is the person who had caused the accident. The tribunal failed to note that the appellant herein was a padestrian and also an injured in the unfortunate accident. The driver of the vehicle dashed against the deceased and also hit the appellant, while so, no negligence could be attributed against the appellant herein.

6. The learned counsel for the appellant submitted that the tribunal did not consider the fact that the false police complaint lodged against him was closed as mistake of fact. Further the FIR was registered on 08.06.2000, whereas the vehicle was produced for inspection only on 07.08.2003 i.e after three years only with intention to fabricate the records which is very much evidence from Ex.A4 and Ex.A5.

7. The learned counsel further submitted that the ownership of the vehicle can be ascertained only by taking note of the name found place in the registration certificate. Ex.D1 would show that the appellant is not the owner of the offending



vehicle on the date of the accident. As per the evidence of RW5 the alleged vehicle was handed over to the 3rd respondent herein, therefore the appellant cannot be mulcted with the liability. Therefore, as per the settled position of law by the Hon'ble Supreme Court, the liability has to be fixed on the person whose name is found place in the registration certificate, therefore, the respondents 2 & 3 herein are liable to pay the award amount.

8. Heard the learned counsel appearing for the appellant and perused the materials available on record. Though notice served on the respondents, none appeared on their behalf.

9. The main contention of the learned counsel for the appellant is that the ownership of the vehicle can be ascertained only by taking note of the name found place in the registration certificate and official records. Ex.D1 clearly proves that the appellant is not the owner of the offending vehicle on the date of the accident. Further RW5 deposed that the alleged vehicle was handed over to the 3rd respondent herein, therefore the appellant cannot be made liable to pay the compensation.

10. The learned counsel relied upon the decision of the Hon'ble Supreme Court reported in the case of Prakash Chand Daga Vs.Savetha Sharma reported in 2019 (1) TNMAC 1 SC. The relevant portion of the said judgment is extracted below;

....

" 8. In the decision in Naveen Kumar (supra) the legal position was adverted to and this Court observed as under:

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



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vehicle but Civil Appeal No.11369 of 2018 Prakash Chand Daga vs. Saveta Sharma & Ors. 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 Reshma (2015)3 SCC 679 and Purnya Kala Devi (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 (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.

9. The law is thus well settled and can be summarised:



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"Even though in law there would be a transfer of ownership of the vehicle, that, by itself, would not absolve the party, in whose name the vehicle stands in RT0 records, from liability to a third person Merely because the vehicle was transferred does not mean that such registered owner stands absolved of his liability to a third person. So long as his name continues in RT0 records, he remains liable to a third person."

The aforesaid decision of the Hon'ble Supreme squarely applies to the facts of the present case.

11. In the instant case, Ex.R1/RC Book stands in the name of 2nd respondent as registered owner of the vehicle. The tribunal has also clearly rendered its findings that the 2nd respondent's name is still exists in the RT0 records as registered owner. Therefore it is clear that the appellant herein is not liable to pay compensation to the claimants and by relying upon the decision of the Hon'ble Supreme Court cited supra, the appellant herein is absolved from liability. The 2nd respondent herein, whose name the vehicle is registered in registration authority is liable to pay compensation.

12. Accordingly, the Judgment and decree passed by the tribunal in M.C.O.P.No.290 of 2001, dated 16.03.2007 is set aside to the extent that the appellant herein is absolved from liability to pay the compensation to the claimant. The 2nd respondent/registered owner of the vehicle shall pay the entire compensation as awarded by the tribunal along with interest to the claimant.

13. In the result, this Civil Miscellaneous Appeal is allowed to the aforesaid extent. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Sub Judge,
(Motor Accident Claims Tribunal),
Sankari.

Copy To:

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.19496

CMA.No.3077 of 2007

GJ(CO)
SB(28/10/2021)