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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

CMA. No.2737 of 2014

K.M.Rajendran ... Appellant/2nd Respondent

..Vs..

1.Palaniammal ...1st Respondent/Petitioner

2.Neelakandan

3.Ravichandrababu ...2nd & 3rd Respondents/
1st and 3rd Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 31.07.2014 made in M.C.O.P.No.662 of 2010 on the file of Additional Special Court (Motor Accidents Claims Tribunal), Krishnagiri.

For Appellant : Mr.N.Manokaran

For Respondent No.1 : Mr.K.Prasanna
For Mukund R.Pandiyan

Respondent No.2 & 3 : Notice served

JUDGMENT

Dissatisfied with the judgment and decree, dated 31.07.2014, passed by the tribunal awarding compensation of Rs.2,00,000/- along with interest at the rate of 7.5% per annum, the Appellant is before this Court to set aside the judgment and decree dated 31.07.2014 passed by the tribunal.

2. It is the case of the claimant/1st Respondent herein that on 13.03.2010 at about 7.30 p.m, the claimant, while walking in front of her house in Gurubarapalli Nedusalai at Beemandapalli village, at the time a motorcycle bearing Reg. No. TN-29-U-6478 belonging to the appellant herein was driven by the



2nd Respondent herein in a rash and negligent manner and dashed against the claimant. Due to the accident, the claimant sustained grievous injury and caused permanent disablement. The claimant/1st respondent filed a claim petition before the Tribunal for a compensation of Rs. 2,00,000/- for disability sustained by her.

3. Before the Tribunal, the claimant and Dr.Gandhi were examined as witnesses P.W.1 & P.W.2 respectively and Exhibits P1 to P8 were marked on the side of the claimant, whereas R.W.1 & R.W.2, the appellant herein and One Mr.Balaraman were examined respectively and Exhibits R1/Vehicle sale receipt is marked on the side of the respondents.

4. The Tribunal, based on the oral and documentary evidence, has held that the accident had occurred due to rash and negligence on the part of the rider of the motorcycle and fixed liability on the owner of the motorcycle/appellant herein to pay compensation of Rs.2,00,000/- to the claimant along with interest at the rate of 7.5% p.a from the date of petition till realization.

5. Aggrieved by the same, the owner of the motorcycle/appellant herein has preferred the present appeal to set aside the Judgment and decree passed by the Tribunal.

6. The learned counsel for the appellant submitted that once the sale price had been paid and possession of vehicle was taken by the transferee on 20.05.2005, the transfer of vehicle is complete and the change of registration is not a condition precedent for transfer of ownership. The learned counsel has further submitted that merely because the transfer was not intimated to the registering authority, it will not invalidate the transfer as such, which had already taken place. The moment possession of vehicle was delivered by the appellant and taken by the 3rd respondent, the sale was completed and ownership in the vehicle passed from the appellant to the 3rd respondent. It is further submitted that the respondents 1 and 3 in the claim petition have conveniently set exparte, but, the award has been passed against the appellant herein. The learned tribunal has simply rejected the Ex.R1 for want registration unmindful of th fact that it is a receipt for payment of sale price. Hence the award passed by the tribunal as against the appellant herein is liable to be set aside.

7. The learned counsel for the 1st respondent /claimant submitted that the admittedly, the vehicle stands in the name of the appellant herein as registered owner in RTO records, unless the transfer of name effected in the official records, he is liable to pay the compensation to the claimant. Therefore, the



liability fixed on the appellant by the tribunal has proper and does not required any interference by this Court.

8. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the claimant/1st respondent and perused the materials available on record.

9. The only question involved in the present appeal is whether the appellant is liable to pay compensation to the claimant in the absence of transfer of ownership of the vehicle.

10. According to the learned counsel for the appellant, the appellant sold his TVS Suzuki Max 100 bearing Reg.No. TN29-U-6478 to the 3rd respondent namely Ravichandrababu on 25.05.2005 and received the amount. From the said date, the vehicle has been in possession with the 3rd respondent, therefore the appellant is not liable to pay the compensation for the accident that took place on 13.03.2010 and should be absolved from the liability.

11. It is seen from the records, the respondents before the tribunal have marked Ex.R1/Sale receipt, but the 2nd respondent/appellant herein did not speak about the said sale receipt in his evidence. Further the said document was not registered, therefore the tribunal concluded that the unregistered document cannot be considered and accordingly rejected the same. Ex.A5/Motor Inspection Report marked by the claimant reveals the fact the appellant herein is the owner of the vehicle. Therefore, the tribunal concluded the the appellant being owner of the vehicle is liable to pay compensation to the claimant.

12. At this juncture, it is relevant to rely upon the judgment of the Hon'ble Supreme 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;

"9. The law is thus well settled and can be summarised:-
Civil Appeal No.11369 of 2018 Prakash Chand Daga vs.
Saveta Sharma & Ors.

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 RTO 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 RTO records, he remains liable to a third person. 3 The High Court was therefore absolutely right in allowing the



appeal. The challenge raised by the appellant must fail."

13. On the facts of the case, admittedly appellant's vehicle which involved in the accident was sold to the third party, but transfer of name was not done under Section 230 of the MV Act, therefore, it is held that appellant is liable to pay compensation under Section 166 of MV Act since his name is reflected in records of registering authority as registered owner of the vehicle. In the present case also, the appellant was the owner of the vehicle involved in the accident within the meaning of Section 2(30). As per 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. The aforesaid decision of the Hon'ble Supreme Court is squarely applicable to the facts of the present case. This Court finds no force on the contention of the appellant and the appeal is liable to be dismissed.

14. In the result, this Civil Miscellaneous Appeal is dismissed to the aforesaid extent. No costs.

Sd/-

Deputy Registrar (Spl Cell CJ conf)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Special Court
(Motor Accident Claims Tribunal),
Krishnagiri.

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

+1cc to Mr. N. Manokaran, Advocate, S.R.No.19864

CMA.No.2737 of 2014

SMI (CO)
CB(20/10/2021)