



CMA No.1268 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 07.12.2023	Delivered on 14.12.2023
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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

Civil Miscellaneous Appeal No.1268 of 2022

and CMP No.3847 of 2023

1.S.Shantha

2. Subramaniam

... Appellants/Petitioners

Vs

1. C.Kumarasamy

2. K.Sakthivel

3. R.Thangavel

4. S.Mahesh

5. The Transport Commissioner

(State Transport Authority)

Ezhilagam PWD Estate,

Chepauk, Chennai 600 005.

... Respondents/Respondents

Respondent 5 has been *Suo motu* impleaded vide
Court order dated 20.10.2023 by RSMJ and NSJ.

The respondent 3 remained exparte before Tribunal, moreover claim against R3
also dismissed. Hence notice may be dispensed with for R3 in this Appeal.



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Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 12.06.2017 made in MCOP No.381 of 2014, on the file of the Motor Accident Claims Tribunal/The Special District Court, Erode.

For Appellants : Mr.M.Lokesh

For Respondents : Mr.V.Subramanian, for R2

Mr. S.P.Yuvaraj, for R4

Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.G.Ameedivs
Govt. Advocate, for R5

R1- served - No appearance

R3 - Insufficient address

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The claimants, who are the parents of one S.Prakash, who died in a motor accident that occurred on 26.10.2013 are on appeal, challenging the award of the Tribunal making the first and the fourth respondents, before the Tribunal as well as in this Appeal, liable to pay the compensation awarded in MCOP No.381 of 2014.



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WEB COPY 2. The facts that led to the filing of the claim petition in MCOP

No.381 of 2014 are as follows:

2.1. On 26.10.2023, while the deceased Prakash was returning from his work in his Motor Cycle bearing Registration No.TN 38 AM 9002 on Erode Karur Main Road from west to east, the Tractor bearing Registration No.TN 33 AK 5529 owned by the second respondent, driven by the first respondent in a rash and negligent manner dashed against him. As a result of the impact, the deceased was thrown of the motor cycle suffered a head injury and died on the spot. It was contended that the deceased was earning a sum of Rs.7,175/- as salary and also a sum of Rs.15,000/- by doing real estate business. Terming the negligence on the part of the driver of the Tractor as the cause of the accident and justifying the quantum pleading that the deceased was earning about Rs.22,175/- per month as stated above, the claimants sought for a compensation of Rs.50,00,000/-.

2.2. The first respondent resisted the claim petition contending that he was not driving the tractor and the accident did not occur in the manner suggested by the claimants.



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2.3. The second respondent filed a counter contending that he was not aware of the accident. He had pleaded that he had sold the tractor to the fourth respondent Mahesh, even on 20.09.2013 and therefore, the said Mahesh alone is liable to pay the compensation. It was also claimed that he had informed the Regional Transport Officer, Erode on 22.09.2013 and he had issued a notice to Mahesh requiring him to get the records transferred in his name and the said Mahesh had sent a reply 05.08.2015 stating that he had effected the transfer with effect from 20.09.2013. He would also contend that the said Mahesh is a necessary party to the application.

2.4. Upon such plea having been taken, the said Mahesh was impleaded as the fourth respondent. He filed a counter admitting ownership of the Tractor and the purchase of the Tractor on 20.09.2013. It was also claimed that the deceased was responsible for the accident. The second respondent filed an additional counter contending that the possession of the Tractor was handed over to Mahesh on 20.09.2013 and therefore, he cannot be held liable for payment of compensation, he having parted with the vehicle.



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3. At trial, the first claimant mother of the deceased was examined as P.W.1 and one Sivakumar was examined as P.W.2. Exhibits A1 to A13 were marked. On the side of the respondents one Thiru.Thirumalairajan, was examined as R.W.1 and Sakthivel, the second respondent was examined as R.W.2. Exhibits R1 to R9 were marked. The letter issued by the Regional Transport Officer was marked as Ex.R1 and the order of transfer was marked as Ex.R2, the delivery receipt and the possession receipt were marked as Exs.R3 and R4. The letter said to have been sent by the second respondent to the Regional Transport Officer, Erode, was marked as Ex.R5.

4. On a consideration of the pleadings, the Tribunal framed the following issues:

1. Whether the accident was caused by the negligence of the Tractor;

2. What is the quantum of compensation payable to the petitioners?

3. Who is liable to pay the compensation?



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5. On a consideration of the evidence on record, viz. the FIR, the Sketch and the Inquest Report, the Tribunal held that the accident was caused due to the rash and negligent driving of the driver of the Tractor. On the quantum of compensation, the Tribunal took into account Ex.A13 which demonstrated that he was drawing a salary of Rs.1,02,960/- and fixed the annual income at Rs.1,03,000/-. It added 50% towards future prospects and arrived at the annual income at Rs.1,54,500/-. Since the deceased died as a bachelor, the Tribunal deducted 50% towards his personal expenses and fixed the annual loss of dependency at Rs.77,250/-. It applied a multiplier of 18 since the deceased was aged 23 years and arrived at the total loss of dependency at Rs.13,90,500/-.

6. The Tribunal granted a sum of Rs.10,000/- towards transport and Rs.25,000/- towards funeral expenses. It also granted a sum of Rs.50,000/- towards loss of love and affection to the parents of the deceased at Rs.25,000/- each. Thus, the total compensation was arrived at Rs.14,75,500/-.

7. Adverting to the liability, the Tribunal took into account the fact that the Regional Transport Officer had effected the transfer of the



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vehicle with effect from 20.09.2013 on 19.06.2015 to conclude that S.Mahesh/the fourth respondent was the owner of the tractor on the date of the accident i.e. 26.10.2013. On the said finding the Tribunal held that the fourth respondent alone is liable to pay the compensation.

8. The claimants are on Appeal particularly aggrieved by the fixation of liability on the fourth respondent, as according to them, the second respondent in whose name the Registration Certificate of the Tractor stood on the date of the accident alone would be liable.

9. We have heard Mr.M.Lokesh, learned counsel appearing for the appellants, Mr.V.Subramanian, learned counsel appearing for the second respondent, Mr.S.P.Yuvaraj, learned counsel appearing for the fourth respondent. The first and the third respondent though served are not appearing either in person or through counsel.

10. Upon hearing the learned counsel for the parties for some time, we entertained a doubt as to the power of the Regional Transport Officer to record a transfer, in the certificate of registration, with retrospective effect, as has been done in the case on hand, we had impleaded the



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Transport Commissioner as respondent No.5, and required him to file a report clarifying the legal position. Consequent upon impleading the Transport Commissioner has filed an affidavit with certain enclosures. We have heard Mr.J.Ravindran, learned Additional Advocate General appearing for the Transport Commissioner.

11. Mr.M.Lokesh, learned counsel appearing for the appellants would vehemently contend that as far as the liability to pay compensation under Chapter XII of the Motor Vehicles Act is concerned, the factum of transfer by the Regional Transport Authority does not have any bearing. The learned counsel would submit that it is the person in whose name the vehicle stands registered on the date of the accident, who would be liable to pay the compensation *dehors* the sale. In support of his contention, the learned counsel would rely upon the definition of the ‘Owner’ in Section 2(30) of the Motor Vehicles Act, 1988 which reads as follows:

2 (30): “owner” means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an



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agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;

12. Laying emphasis on the language of the provision, the learned counsel would contend that for the purposes of payment of compensation under Chapter XII, the owner of the motor vehicle is the person in whose name the vehicle stands registered. Pointing out that the legislature has been careful enough to make an exception regarding vehicles which are subject matter of a hire-purchase or an agreement of lease or an agreement of hypothecation, the learned counsel would submit that the liability to pay compensation is always on the person whose name is reflected as the registered owner on the date of the accident.

13. The learned counsel would also invite our attention to Section 50 of the Motor Vehicles Act which deals with recording of transfer of ownership. Section 50 reads as follows:

S. 50. Transfer of ownership.—(1) Where the ownership of any motor vehicle registered under this Chapter is transferred,—



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(a) the transferor shall,—

(i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; and

(ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i)-(A) the no objection certificate obtained under section 48; or

(B) in a case where no such certificate has been obtained,—

(I) the receipt obtained under sub-section (2) of section 48; or

(II) the postal acknowledgement received by the



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transferred if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted;

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

(2) Where—

(a) the person in whose name a motor vehicle



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stands registered dies, or

(b) a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of, Government,

the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his name, to the registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government.

(3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2)



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(hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be taken against him under section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5):

Provided that action under section 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount.

(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 177.

(5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of



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transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2). 32

(6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of ownership to be entered in the certificate of registration.

(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority, if it is not the original registering authority.

14. Pointing out the fact that Section 50 of the Motor Vehicles Act, imposes an obligation of transferor to report a factum of transfer with the Registering Authority, the learned counsel would submit that the transferor cannot take advantage of his own wrong or his failure to intimate the Authority concerned. The learned counsel would make particular reference to the provision of Sections 50(1)(a) and (b) which impose an obligation on the transferor and the transferee to intimate the transfer. No doubt, Sub Section 3 of Section 50 provides for registration



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of transfers belatedly on payment of certain fine under Section 177 of the Motor Vehicles Act, that by itself, according to the learned counsel, would not relieve the transferor from the liability to pay compensation.

15. The learned counsel would also rely upon the judgment of the Hon'ble Supreme Court in *Naveen Kumar v. Vijay Kumar and Others*, reported in (2018) 3 SCC 1, where a Three Judge Bench of the Hon'ble Supreme Court dealt with the said issue and concluded that the person in whose name the vehicle stood registered on the date of the accident would be liable to pay compensation. The Hon'ble Supreme Court also took note of the difference in language in the definition of the term 'Owner' as found in Section 2(19) of the Motor Vehicle Act, 1939 and 2(30) of the Motor Vehicles Act, 1988.

16. Contending contra Mr.V.Subramanian and Mr.S.P.Yuvaraj, learned counsel appearing for the respondents 2 and 4 respectively would submit that since the transfer has been effected with effect from 20.09.2013, viz. the actual date of sale, it is the fourth respondent who alone would be liable and the Tribunal was justified in concluding that the fourth respondent is liable to pay the compensation. In support of the



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said submission Mr.V.Subramanian, learned counsel appearing for the second respondent would rely upon a Division Bench judgment of this Court in ***Hema Ramaswami v. K.M.Valarence Panjani and Others***, reported in ***(1981) 1 MLJ 182***, the Judgments of the Hon'ble Supreme Court in ***Vasantha Viswanathan and Others v. V.K.Elayalwar and Others***, reported in ***(2001) 8 SCC 133***; ***National Insurance Co. Ltd. v. Deepa Devi and others***, reported in ***(2008) 1 SCC 414***; and the Three Judge Bench of the Hon'ble Supreme Court in ***HDFC Bank Limited v. Reshma and Others***, reported in ***(2015) 3 SCC 679***.

17. Mr.J.Ravindran, learned Additional Advocate General appearing for the Transport Commissioner, would submit that a recording of the transfer by the Regional Transport Authority being a ministerial act which is performed on receipt of request from either the transferor or the transferee along with appropriate fee. The Regional Transport Authority is not concerned with the liability that occurs under Chapter XII of the Motor Vehicles Act. If a request is made and the appropriate fee is paid, the Regional Transport Authority as per the provisions of Section 50 of the Motor Vehicles Act, will transfer the ownership.



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18. It is also pointed out that the Regional Transport Authority has no means to find out, as to whether, there is any claim petition that is pending or the vehicle concerned is involved in an accident or not. The Transport Commissioner has also filed an affidavit to that effect and he has also produced records to show that the records relating to the transfer has been destroyed due to passage of time.

19. We have considered the rival submissions.

20. The negligence and the quantum are not in dispute. The only question that is to be decided is as to the liability to pay the compensation. While the appellants would contend that the second respondent in whose name the vehicle stood registered on the date of the accident would be liable, the second and the fourth respondent would contend that it is the fourth respondent, who had purchased the vehicle on 20.09.2013 who would be liable for payment of compensation.

21. Section 2(30) of the Motor Vehicles Act defines the owner of the vehicle. It does not refer to actual physical possession of the vehicle.

In terms of Section 2(30) of the Motor Vehicles Act, which has been



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extracted *supra*, it is the person in whose name the vehicle stands registered who is deemed to be the owner of the Vehicle, except in cases where the vehicle is in possession of some other person under a lease agreement or a hypothecation agreement or a hire-purchase agreement. It is not the case of any of the parties in the case on hand that there was a lease agreement or a hypothecation agreement or a hire-purchase agreement. All that is pleaded is the vehicle was sold out on 20.09.2013 and it was in actual physical control of the fourth respondent and therefore, it is the fourth respondent, who is liable.

22. As regards the judgment that was cited at the Bar, let us first deal with the judgments cited by the learned counsel for the second respondent. The Division Bench judgment in ***Hema Ramaswami v. K.M.Valarence Panjani and Others***, reported in (1981) 1 MLJ 182, dealt with the liability of the Insurance Company and the transferor, where an accident takes place between the date of transfer and registration with the Registering Authority. The Division Bench had held that it is the transferee who would be liable to pay the compensation. We must at once point out that the Division Bench judgment turned on the definition of the term 'owner' under Section 2(19) of the 1939 Act, and the Division



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Bench also took note of the fact that the Policy of insurance would expire upon transfer. However, we find that this judgment is directly in conflict with the subsequent pronouncement of the Hon'ble Supreme Court in ***Naveen Kumar v. Vijay Kumar and Others***, reported in ***(2018) 3 SCC 1***. We are therefore, constrained to conclude that the judgment of the Division Bench in ***Hema Ramaswami v. K.M.Valarence Panjani and Others*** is no longer good law.

23. The next judgment relied upon by the learned counsel is ***Vasantha Viswanathan and Others v. V.K.Elayalwar and Others***, reported in ***(2001) 8 SCC 133***, that judgment also dealt with the provisions of the *1939 Act*, particularly Sections 31 and 59(1) of the said enactment. While concluding that the transfer of a property in goods is governed by the provisions of Section 19 of the Sale of Goods Act, the Hon'ble Supreme Court concluded that the transfer takes effect on the date of delivery of possession. Therefore, according to the Hon'ble Supreme Court, the subsequent completion of the Registration formalities was immaterial. The said judgment did not deal with the liability to pay compensation. It arose in a suit for injunction that was laid between the parties. The Hon'ble Supreme Court did not have an



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occasion to consider the question of liability vis-à-vis third parties which arises under Chapter 12 of the Motor Vehicles Act. We therefore, do not think the said judgment would form a precedent to decide the question that has been raised before us.

24. In *National Insurance Co. Ltd. v. Deepa Devi and others*, reported in *(2008) 1 SCC 414*, the Hon'ble Supreme Court dealt with that case where the vehicle was requisitioned by the Government and it was in possession of the Government on the date of the accident. Therefore, the Hon'ble Supreme Court held that the person in actual physical possession viz. the Government are the statutory authority is liable to pay the compensation. That was a case where the vehicle was requisitioned by the Election Commission under Section 160 of the Representation of the People Act, 1951. Therefore, the said judgment will not apply to the facts in the case on hand.

25. In *HDFC Bank Limited v. Reshma and Others*, reported in *(2015) 3 SCC 679*, the Hon'ble Supreme Court had dealt with the case where the vehicle was under hypothecation, the High Court made the financier viz. the HDFC Bank Limited liable to pay the compensation in



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the absence of the insurance. The Hon'ble Supreme Court took note of the definition under Section 2(30) of the Motor Vehicles Act and held that since the vehicle was under hypothecation, it is the person who is in possession of the vehicle, who would be liable to pay the compensation and not the financier. Such is not the case here, admittedly the vehicle in question stood in the name of the second respondent on the date of the accident, the transfer was effected much later with effect from an anterior date.

26. In *Naveen Kumar v. Vijay Kumar and Others*, referred to *supra*, the Hon'ble Supreme Court had dealt with an almost similar situation and taking note of Section 2(30) of the Motor Vehicles Act, the Hon'ble Supreme Court had held that the person in whose name the vehicle stood registered on the date of the accident would be liable. The facts of the case as could be culled out from the Judgment of the Hon'ble Supreme Court are as follows:

“An accident took place on 27.05.2009, the vehicle involved in the accident stood registered in the name of the first respondent before the Hon'ble Supreme Court. The first respondent contended that he had transferred the



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vehicle to the second respondent on 12.07.2007, prior to the accident and he has handed over the vehicle together with relevant documents for transfer of the same. The second respondent in turn claimed that he had sold the vehicle to the third respondent on 18.09.2008, the third respondent in turn claimed that he had sold the vehicle to the appellant before the Hon'ble Supreme Court, prior to the accident. The appellant in the course of his written statement claimed that he had sold the vehicle to one 'M'."

27. The succession of transfers was put forth as a defence to the claim. Taking note of the fact that the Registration Certificate of the vehicle continued to be in the name of the first respondent and the fact that the vehicle was uninsured, the Tribunal directed the first respondent viz. **the Registered Owner**, to pay compensation. However, the High Court on appeal held that the last admitted owner viz. the appellant before the Hon'ble Supreme Court is liable to pay the compensation. On appeal by the said last admitted owner, the Hon'ble Supreme Court after referring to the judgments in **HDFC Bank Limited v. Reshma and Others**, and **National Insurance Co. Ltd. v. Deepa Devi and others**,



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concluded that in view of the definition of the term owner under Section 2(30) of the Motor Vehicles Act, it is the person in whose name the vehicle stood registered on the date of the accident, who would be liable and not any other transferee. While doing so, the Hon'ble Supreme Court observed as follows:

“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



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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



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*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 Deviv.State of Assam**, (2014) 14 SCC 142 “.*

The said judgment of the Hon’ble Supreme Court would squarely apply to the facts of the case before us. We therefore, conclude that the liability to pay compensation under Chapter XII of the Motor Vehicles Act would be always on the person in whose name the vehicle stands registered on the date of the accident and not any other person. The view of the Division Bench in **Hema Ramaswami v. K.M.Valarence Panjani and Others**, is no longer good law, in view of the judgment of the Hon’ble Supreme Court in **Naveen Kumar v. Vijay Kumar and Others**, referred to *supra*. We must point out that a Division Bench of this Court in **National Insurance Company Ltd. v. Viyakulasaveri** and others in CMA No. (MD) No.395 of 2021 dated 11.12.2023 has also taken the same view after referring to the judgment of the Hon'ble Supreme Court in **Naveen Kumar v. Vijay Kumar and Others**.



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28. The Tribunal was, therefore, not right in concluding that it is the fourth respondent, who would be liable to pay the compensation. In view of the above conclusion, the Appeal stands **allowed**, while confirming the quantum of compensation awarded by the Tribunal. We conclude that it is the second respondent who would be liable to pay the compensation, as awarded by the Tribunal and not the fourth respondent. Hence there will be an award in MCOP No.381 of 2014 in favour of the claimants as against the second respondent therein. The second respondent will bear the costs of this Appeal. Consequently, the connected miscellaneous petition is closed.

29. Before parting with this case, we must place on record our dissatisfaction with the manner in which the issue has been dealt with by the Transport Commissioner, who has filed a counter affidavit before us. Paragraphs 3 and 5 of the said counter affidavit reads as follows:

“3. I respectfully submit that based on the VAHAN portal entries, it is evident that, Thiru S.Makesh has submitted his application for Transfer of Ownership only on 18.6.2015 after a



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delay of one year and nine months along with the compounding fee of Rs.100/- for the delay duly mentioning the date of sale as 20.09.2013. According to Rule 105-A of the Tamil Nadu Motor Vehicles Rules, 1989,

‘where there is failure to report to the registering Authority, the fact of Transfer within the period specified in clause (a) or clause (b) of sub-section (1) of Section 50, the Registering Authority may, having regard to the circumstances of the case, require the transferor or the transferee, as the case may be, to pay in lieu of any action that may be taken under Section 177, an amount specified in the table’

Thus the Transfer of ownership was given effect on 20.09.2013 by the Regional Transport Office, Erode (East). There is no violation in the transfer of ownership under the Motor Vehicles Act, 1988 and the Rules framed there under.”



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“5. I respectfully submit that in the instant case the transferee has paid the compounding fee for the delay as specified under Sub-section (3) of Section 50 read with rule 105-A of the Tamilnadu Motor Vehicles Rules 1989, and the transfer of ownership was given effect from the date of sale in the certificate of registration. Further I respectfully submit that any transaction has been done between the transferor and transferee duly signed on the date specified by them, it was considered under rule 105-A of the Tamilnadu Motor Vehicles Rules 1989. Since the application for transfer of ownership complies with Section 50(3) read with rule 105-A of the Tamilnadu Motor Vehicles Rules 1989, it was done on 19.06.2015. I respectfully submit that in view of the facts narrated above, the application for transfer of ownership in respect of the vehicle TN33AK 5529 was given effect to based on the sale done between the transferor and the transferee i.e. on 20.09.2013 as



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mentioned in FORM 29 and FORM 30, duly signed

by both of them.”

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30. True the provisions of Section 50 of the Motor Vehicles Act, requires the Regional Transport Authority to effect the transfer on application by the parties. But while effecting a transfer that too after 2 years with retrospective effect, the Authorities must be more careful. Though the second respondent had claimed that he had informed the Regional Transport Authority and has produced a letter which is marked as Ex.R5, we do not find any acknowledgment for the said letter. While impleading the Transport Commissioner, we had required him to enlighten us on the procedure that is adopted by the Regional Transport Officers in effecting transfer of Vehicles, to our dismay, the Transport Commissioner has only repeated the provisions of the enactment and had claimed that there is nothing wrong in effecting a retrospective transfer the ownership of the vehicle.

31. Section 50 of the Motor Vehicles Act, imposes an obligation on the transferor and the transferee, to inform the Regional Transport Authority regarding transfers within 14 days and 30 days respectively.



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Sub Section (3) of Section 50 enables a belated application to be entertained, but Section 50 does not enable the Regional Transport Authority to effect a transfer from an anterior date. If there is a delay in applying for transfer the delay can be condoned, but the recording of the transfer shall be from the date on which it is entered and for an anterior date. If the application had been made within the prescribed period viz. 14 days and 30 days then things would be different, but when an application is made beyond the statutory period, the Authorities may have the power to condone the delay and record the transfer in its records, but it cannot do it with effect from an anterior date that too nearly two years prior to the date of such recording.

32. This kind of recording had led to the Tribunal fastening the liability on the fourth respondent. Surprisingly, the fourth respondent has owed of the liability in the case on hand, we are also informed that the fourth respondent, unable to pay the award amount had served a term in the Civil Jail for his inability to honour the award. If these kinds of transfers are allowed and records are altered with retrospective effect, it will be very easy for a person, who suffers an award or whose vehicle/s meet with an accident to claim that the vehicle was transferred earlier in



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point of time, but the said transfer was recorded later and therefore, they are not liable.

33. The saving grace for us comes from the language of Section 2(30) of the Motor Vehicles Act, which makes it very clear that it is the person in whose name the vehicle stood registered on the date of the accident, who would be termed as the owner of the vehicle and therefore, *dehors* the transfer or registration of the transfer in the records of the Regional Transport Authority, the Court can make the owner in whose name the vehicle stands registered, on the date of the accident, liable to pay the compensation. We feel that it is high time that the Authorities devote some attention to these practices and evolve a procedure to deal with belated applications for transfer of vehicles that too with retrospective effect, so that poor victims of accidents are not left high and dry. We leave it to the wisdom of lawmakers to take appropriate steps in the right direction.

(R.SUBRAMANIAN, J.) (N.SENTHILKUMAR, J.)
14.12.2023

jv



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Index: Yes

Internet: Yes

Speaking order

Neutral Citation: Yes

To

1.The Special District Judge,
Motor Accident Claims Tribunal
Erode.

2.The Section Officer,
VR Section,
Madras High Court, Chennai.



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R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

jv

Civil Miscellaneous Appeal No.1268 of 2022
and CMP No.3847 of 2023

14.12.2023