



CMA(MD).No.116 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.116 of 2017

and

C.M.P(MD)No.1173 of 2017

P.A.Sangarlal

....Appellant/2nd Respondent

Vs.

1.Dhanam

2.Nirmala

3.Siva

... Respondents/Petitioners

4.Amulraj

... Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to call for the records in connection with the case in M.A.C.O.P.No.798 of 2008 dated 28.04.2016 on the file of the Motor Accident Claims Tribunal/District Judge, Dindigul and set aside the same.

For Appellant : Mr.N.Sathish Babu

For R1-R3 : Mr.A.Saravanan



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For R4 : No Appearance

J U D G M E N T

The present appeal has been filed by the owner of the vehicle challenging an award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.798 of 2008 on the file of Motor Accident Claims Tribunal, Dindigul.

2. The claimants have contended that in a motor accident, one Mr.Sakthivel had passed away, who was doing milk vending business and his daily income was Rs.500/- (Rupees Five Hundred only). According to the claim petition, the said deceased was hit by a motor bike driven by the 1st respondent and owned by the 2nd respondent. The claimants have claimed a sum of Rs.5,00,000/- (Rupees Five Lakh only) towards compensation for the death of the deceased.

3. Admittedly, there is no insurance for the offending vehicle. The owner of the vehicle, namely the 2nd respondent, had filed a counter contending that he had purchased the said bike in the year 2002 and the



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RC book was in his name. However, in the year 2004, he has exchanged the said vehicle while purchasing a new vehicle and handed over the possession of the vehicle to the dealer of Bajaj company at Dindigul. Thereafter, the Bajaj company without transferring the registration certificate in their name, had handed over the said vehicle in favour of one Ratchakan, son of Paulraj. At the time of accident, it was owned only by the said Ratchakan. Therefore, the 2nd respondent is not liable to pay any compensation as he was not the owner of the vehicle at the time of the accident.

4. The tribunal after considering the oral and documentary evidence on either side had arrived at a finding that since the registration certificate of the vehicle stands in the name of the 2nd respondent, he cannot turn around and contend he had already sold the vehicle in favour of one Ratchakan. The liability is upon the person in whose name the registration certificate of the offending vehicle stands. Based upon the said finding, the tribunal imposed the liability upon the 2nd respondent. Thereafter, proceeded to hold that the daily income of the deceased was



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around Rs.150/- (Rupees One Hundred and Fifty only) and based upon the judgment of the Hon'ble supreme Court reported in **2009 (2) TNMAC 1 (SC) (Sarala Varma & Others Vs. Delhi Transport Corporation & Another)**, the tribunal has taken an additional of 30% towards future prospects and ultimately arrived at a compensation of Rs.70,200/- (Rupees Seventy Thousand and Two Hundred only) towards loss of income. A total compensation of Rs.6,95,200/- (Rupees Six Lakh Ninety Five Thousand and Two Hundred only) was calculated and arrived at by the tribunal. Challenging the said award, the present appeal has been filed by the owner of the offending vehicle.

5. According to the learned counsel appearing for the appellant, the appellant had sold the vehicle to the dealer of the Bajaj Company at Dindigul in the year 2004 itself at the time of exchanging the same for a new vehicle. Therefore, on the date of the accident, the 2nd respondent was not the owner of the vehicle, but one Ratchakan to whom the Bajaj company had resold the vehicle was the owner at the time of accident. The said Ratchakan was using the said vehicle without renewing the



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insurance policy. Therefore, the entire liability could be fastened only upon the said Ratchakan and not upon the 2nd respondent/appellant herein.

6. Per contra, the learned counsel appearing for the respondents herein had contended that the name of the 2nd respondent/appellant is reflected in the registration certificate of the offending vehicle and he is liable to pay the compensation. The learned counsel appearing for the respondents further relied upon a judgment of the Hon'ble supreme Court reported in **2018 (3) SCC 1 (Naveen Kumar Vs. Vijay Kumar & Others)** to contend that when the name of the registered owner continues to be in the records of the registering authority, despite the sale or transfer of the vehicle, the registered owner is liable to pay the compensation even if he had sold the vehicle.

7. I have carefully considered the submissions made on either side.

8. The primary defense on the side of the appellant is that they have sold the vehicle in the year 2004 itself to the Bajaj company dealer at Dindigul while exchanging the old vehicle for a new one. However, no



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records have been placed before the Court to prove that the Bajaj company have taken possession of the vehicle at the time of exchange for a new vehicle. Moreover, the invoice of the new vehicle would reflect that the entire sale consideration was not paid by the owner, but some amount was adjusted towards the exchange of the old vehicle. The said invoice was also not placed before the Court. That apart, according to the 2nd respondent/appellant, he had purchased the vehicle in the year 2002 and it is stated that within 2 years, he has sold the vehicle to the Bajaj company and exchanged for a new vehicle. Therefore, the case of the appellant/2nd respondent is not believable, especially when no records have been placed before the Court. That apart, as per the judgment of the Hon'ble Supreme Court reported in **2018 (3) SCC 1 (Naveen Kumar Vs. Vijay Kumar & Others)**, as long as the name of the person is reflected in the R.C book as the registered owner, he continues to be liable to pay the compensation amount even though he has sold away the vehicle to a third party.

9. In view of the above said legal position, I do not find any merits in the present appeal. As far as the issue of quantum is concerned, this Court does not find that the award under any one of the heads is an



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unreasonable or exorbitant. Therefore, this appeal lacks of merits and the same is hereby dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

- 1.The Motor Accident Claims Tribunal/
District Judge,
Dindigul.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgement made in
C.M.A(MD)No.116 of 2017

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