



2023:DHC:7012



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 25.09.2023***+ **CM(M) 598/2023 & CM APPL. 18136/2023****SH. OMKAR SINGH**

..... Petitioner

Through: Mr.Vishal Chaudhary, Adv.

versus

SMT. SAVITA KUNWAR & ORS.

..... Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner challenging the order dated 20.10.2022 passed by the learned Motor Accidents Claims Tribunal-1 (North-District), Rohini Courts, Delhi (hereinafter referred to as the 'Tribunal') in MACT No. 576/2018 titled *Smt.Savita Kunwar & Ors. v. Sh. Vijay Kumar & Ors.*, dismissing the application filed by the petitioner herein under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (in short, 'CPC') seeking deletion of his name from the array of parties.

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2. The above Claim Petition has been filed by the respondent nos.1 to 2 seeking compensation on account of the death of late Shri Om Parkash Mahto, alleging that he had died as a result of a motor vehicle accident which took place on 14.03.2018 at about 8:00 AM at Nathupur Mor, GT Road, Kundli, Sonipat, Haryana being hit by a Tata Safari bearing registration no. DL-7CT-0398. The petitioner herein has been impleaded as respondent no.3 in the Claim Petition, being the registered owner of the offending vehicle.

3. It is the case of the petitioner that the petitioner had sold the offending vehicle to the respondent no.6 herein, who has also been impleaded as respondent no.2 before the learned Tribunal, on 12.12.2017, that is, much prior to the date of the accident. The petitioner states that the respondent no.6 herein has also executed an affidavit dated 12.01.2018 acknowledging that he has purchased the offending vehicle from the petitioner herein.

4. The learned counsel for the petitioner submits that the respondent no.6 herein has also got the offending vehicle released on *superdari* before the learned Trial Court at Sonipat, on 19.04.2018. The learned counsel for the petitioner submits that, therefore, the petitioner herein was neither a necessary nor a proper party in the Claim Petition.

5. I am unable to find merit in the submission made by the learned counsel for the petitioner.

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6. It is not disputed that as on the date of the accident the offending vehicle stood registered in the name of the petitioner herein before the relevant registration authority.

7. In **Naveen Kumar v. Vijay Kumar and Others**, (2018) 3 SCC 1, considering the definition of the term 'owner' as defined in Section 2(30) of the Motor Vehicles Act, 1988, the Supreme Court has 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 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 Reshma and Purnya Kala Devi.

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. Joses, 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."

8. Therefore, even on the sale of the offending vehicle, till the time the same stands registered in the name of the petitioner with the registering authority, the petitioner person shall remain liable to pay the compensation. The learned Tribunal has also taken note of the said fact and, therefore, has rightly rejected the application of the petitioner filed under Order I Rule 10 of CPC.

9. In view of the above, the petition, along with the pending application, is dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

SEPTEMBER 25, 2023/rv/ss

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