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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24.08.2023

+ MAC.APP. 409/2019 & CM APPL. 13991/2019 & 44914/2022

POONAM

..... Appellant

Through: Mr.C.P. Tyagi, Adv.

versus

ARVIND PARAMANIK & ORS..... Respondents

Through: Mr.Vipul Sharma & Mr.M.K. Rizvi, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant challenging the Award dated 16.01.2019 passed by the learned Motor Accidents Claims Tribunal (Pilot Court), Karkardooma Courts, Delhi (hereinafter referred to as the 'Tribunal') in DAR No. 345/2018 titled *Sh. Arvind Pramanik v. Sh.Aman &Ors.*, allowing the Claim Petition of the respondent no.1 herein, and awarding a sum of Rs.9,65,154/- in favour of the respondent no.1 along with interest at the rate of 9% per annum from the date of filing of the petition till the realization of the compensation amount. The appellant, however, has been granted the right to recover the compensation amount paid by her to the respondent no.1, from the respondent no.3 herein.

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2. It is the case of the appellant that she had transferred the offending vehicle, being the car bearing registration no. DL 7 CE 3484, in favour of the respondent no.3 herein on 27.03.2018. The accident occurred only thereafter on 19.06.2018. The learned counsel for the appellant submits that based on the transfer documents, in fact, the vehicle was transferred in favour of the respondent no.3 on 24.08.2018. He submits that, therefore, the learned Tribunal has erred in law and on facts in fastening the liability to pay the compensation amount to the respondent no.1 on the appellant herein.

3. I am unable to agree with the challenge laid by the appellant to the Impugned Award. Admittedly, as on the date of the accident, the appellant continued to be shown as the registered owner of the offending vehicle with the Registration Authority. In **Naveen Kumar v. Vijay Kumar & Ors.**, (2018) 3 SCC 1, the Supreme Court has held that the owner under Section 2(30) of the Motor Vehicles Act, 1988 is the person in whose name the vehicle stands registered with the Registration Authority. I may quote the relevant extract from the judgment 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”

4. The next challenge of the appellant to the Impugned Award is that the respondent no.1 herein had been unable to prove that he had suffered the amputation of his lower left limb as a result of the accident in question. In support of this challenge, the learned counsel for the appellant has drawn my



attention to the statement of PW-3-ASI Hari Shankar, who was the Investigating Officer. In his statement, PW-3 states that the amputated portion of the leg was neither recovered from the spot nor the same was searched for during the investigation. PW-4-Dr.Deepankar Verma, stated that when the respondent no.1 was admitted in hospital his leg was already amputated and he could not say after going through the records, whether the amputated portion of the leg was also produced at the time when the respondent no.1 was brought to the hospital, nor could he say if any effort was made by the hospital to join the amputated portion of the leg of the respondent no.1. The learned counsel for the appellant submits that the respondent no.1 in his statement admitted that he was diabetic patient. He submits that, therefore, it was very much possible that the leg of the respondent no.1 had been amputated prior to the accident and he tried to pass the same off as a result of the present accident.

5. I am unable to agree with the submission made by the learned counsel for the appellant. Most relevant in this regard is the lack of cross-examination of the respondent no.1 on this aspect. Not even a single suggestion was put to the respondent no.1 that his leg had already been amputated prior to the accident. Merely because the Investigation Officer did not make an effort to search for the amputated portion of the leg or that from the hospital record it was later not discernable if the amputated portion of the leg was produced before the hospital, it cannot be said that the respondent no.1 had failed to discharge

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the onus of proof placed on him of having suffered the injury as a result of the accident. It need not be reemphasised that in a claim arising out of a motor accident, the claimant is not required to prove his case beyond all reasonable doubts, but on a test of preponderance of probability. In my view, the said test has been met by the respondent no.1.

6. Accordingly, I find no merit in the present appeal. The same is dismissed.

7. The statutory amount deposited by the appellant along with interest accrued thereon shall be released in favour of the respondent no.1 towards cost of the present appeal.

NAVIN CHAWLA, J

AUGUST 24, 2023/rv/am

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