



2023:DHC:8994



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

Date of decision: 14.12.2023

(15)+ MAC.APP. 600/2019

INDIWAR PARIJAT

..... Appellant

Through: Mr.Amit Kumar, Adv.

versus

NATIONAL INSURANCE COMPANY LTD & ORS

..... Respondents

Through: Ms.Seema Gulati, Adv. for R-1.

(16)+ MAC.APP. 659/2019

ROHIT RANA

..... Appellant

Through: Mr.Amit Kumar, Adv.

versus

NATIONAL INSURANCE CO LTD & ORS Respondents

Through: Ms.Seema Gulati, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 25471/2019 in MAC. APP. 600/2019

1. This is an application seeking condonation of 75 days delay in filing the appeal.
2. For the reasons stated in the application, the delay is condoned and the application is allowed.

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MAC. APP. NOS.600/2019 & 659/2019

Page 1 of 11



2023:DHC:8994



CM APPL. 30566/2019 in MAC APP. 659/2019

3. This is an application seeking condonation of 114 days delay in filing the appeal.
4. For the reasons stated in the application, the delay is condoned and the application is allowed.

MAC.APP. 600/2019 & CM APPL. 25472/2019
MAC APP. 659/2019 & CM APPL. 30567/2019

5. As both these appeals have been filed challenging the Award dated 06.12.2018 passed by the Motor Accident Claims Tribunal (West-01), Delhi (hereinafter referred to as 'Tribunal') in MACT Case no.545/2017 titled *Sh.Ganesh & Ors. v. Sh.Rohit Rana & Ors.* (hereinafter referred to as 'Impugned Award'), I shall be addressing them by way of this common Judgment.
6. By the Impugned Award, the learned Tribunal while awarding compensation of Rs.15,49,324/- along with interest at the rate of 9% per annum from the date of claim petition, that is, 03.08.2017, till its realization, in favour of the claimants, that is, the respondent nos.2 to 6 herein, has further directed that the respondent no.1 herein shall pay the said compensation to the claimants, however, have a recovery right against the appellants herein to recover the same from them.
7. The appellants are aggrieved of the above direction.
8. The above Claim petition was filed by the claimants under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act') claiming therein that on

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19:57:46

MAC. APP. NOS.600/2019 & 659/2019

Page 2 of 11



2023:DHC:8994



30.05.2017 at about 8:00 PM, the deceased along with her husband was going on foot towards their residence/Jhuggi, Golden Park from Madan Park, on the extreme corner of the road. As they reached Rohtak Road and were crossing the road towards their residence, a motorcycle bearing Registration No.DL-8S-BT-1129 (hereinafter referred to as the 'Offending Vehicle'), which was being driven by one Rohit Rana at a very high speed and in a rash and negligent manner, came from Pillar No. 60 to 61 between Ramapura Red Light and hit the deceased with a great force. Due to the forceful impact, the deceased fell on the road and sustained grievous injuries. She was rushed to Maharaja Agrasen Hospital, Punjabi Bagh, New Delhi, however, during her treatment, the deceased unfortunately succumbed to her injuries on 31.05.2017.

9. The learned Tribunal in its Impugned Award has held that the accident had taken place due to the Offending Vehicle being driven in a rash and negligent manner.
10. As noted hereinabove, the learned Tribunal has awarded a compensation of Rs.15,49,324/- in favour of the claimants, directing the respondent no.1-Insurance Company to pay the same at the first instance, however, granting a right to the Insurance Company to recover the same from the registered owner of the Offending Vehicle, that is, Sh.Indiwar Parijat (appellant in MAC APP. 600/2019) and Master Rohit Rana (appellant in MAC. APP. 659/2019), who was admittedly driving the Offending Vehicle at the time of the accident.

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Signing Date: 15.12.2023

19:57:46

MAC. APP. NOS.600/2019 & 659/2019

Page 3 of 11



Submissions by the learned counsel for the Appellants

11. The learned counsel for the appellants submits that Sh.Indiwar Parijat cannot be made liable to reimburse the compensation to the Insurance Company inasmuch as it had been proved on record that he had sold the Offending Vehicle to Sh. Kender Singh Rana vide Sale Letter dated 28.04.2018 (Ex.R2W1/1), that is, prior to the accident. He submits that Sh.Kender Singh Rana was examined as R1W1 and has admitted that he had purchased the Offending Vehicle prior to the date of the accident. The learned counsel for the appellants further submits that as the appellant-Sh.Indiwar Parijat was no longer in control of the Offending Vehicle, therefore, he cannot be made liable to reimburse to the Insurance Company the compensation paid to the claimants. In support of his submission, he places reliance on the judgment of the Supreme Court in ***IFFCO Tokio General Insurance Co. Ltd. v. Geeta Devi & Ors.***, 2023 SCC OnLine SC 1398; and on the judgment of this Court in ***Kalawati Devi & Ors. v. Anil Kumar & Ors***, 2015 SCC OnLine Del 7672. He submits that it is only the subsequent purchaser of the Offending Vehicle who would be liable to reimburse the compensation amount to the Insurance Company.
12. As far as Sh.Rohit Rana (appellant in MAC APP. 659/2019) is concerned, he submits that the learned Tribunal has arrived at a conclusion that Sh.Rohit Rana was a minor on the date of the accident. He submits that therefore, he cannot be held liable to reimburse the compensation paid by the Insurance Company to



the claimants. In support, he places reliance on the judgment of this Court in *New India Assurance Company Ltd. v. Rashi Lal & Ors.*, 2012 SCC OnLine Del 5909.

Submissions by the learned counsel for the Insurance Company

13. The learned counsel for the Insurance Company, on the other hand, submits that the appellant Sh.Indiwar Parijat had taken the Insurance Policy for the Offending Vehicle. She submits that Sh.Indiwar Parijat continued to be the registered owner of the Offending Vehicle and, therefore, remains liable to reimburse the compensation amount paid by the Insurance Company to the claimants, as the accident was caused by the Offending Vehicle while being driven by a minor. She submits that the registered owner cannot absolve himself of all liability by contending that he had transferred the vehicle to another person. She further submits that the intimation of such transfer was not given to the Insurance Company prior to the date of the accident.
14. As far as the appellant Sh.Rohit Rana is concerned, she admits that Sh.Rohit Rana was a minor on the date of the accident. She submits that, therefore, he could not have been made liable to reimburse the compensation to the Insurance Company.

Analysis and Finding

15. I have considered the submissions made by the learned counsels for the parties.
16. Admittedly, the appellant-Sh.Indiwar Parijat remained the registered owner of the Offending Vehicle as on the date of the



accident.

17. In **Naveen Kumar v. Vijay Kumar & Ors.**, (2018) 3 SCC 1, the Supreme Court, while interpreting Section 2(30) of the Act, has held that it is the registered owner of the vehicle who would be liable to pay the compensation to the victims of the road accident. It has held 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 [HDFC Bank Ltd. v. Reshma, (2015) 3 SCC 679 and Purnya Kala Devi [Purnya Kala Devi v. State of Assam, (2014) 14 SCC.

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. Jose [T.V. Jose v. Chacko P.M., (2001) 8 SCC 748; 2002 SCC (Cri) 94] , 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.”

18. The Insurance Company merely steps in as an indemnifier of the compensation which the registered owner of the Offending Vehicle, as being a primary person liable, has to pay to the victims of the road accident. The registered owner cannot absolve himself of the liability by contending that he had transferred the offending vehicle to a third person prior to the date of the accident. Neither the victims of the road accident nor the Insurance Company can run after such persons whom the registered owner claims to have transferred the offending vehicle,



and cannot be burdened with following a trail of successive transfers, which are not registered with the Registering Authority. The Insurance Company has no contractual or other relationship with such transferee of the Offending Vehicle. The liability of the Insurance Company arises only because of the contract of insurance between the registered owner of the offending vehicle and itself. It is only because the registered owner is liable to pay compensation to the victim of the road accident caused by the vehicle that the liability of the Insurance Company arises. If the registered owner of the offending vehicle is to seek any benefit of such contract in form of indemnifying himself against the liability, such registered owner is also liable to reimburse the compensation that may be paid by the Insurance Company to the victims of the road accident, if the Insurance Company is otherwise entitled to the same.

19. In the present case, it is not denied that the Offending Vehicle was being driven by a minor at the time of the accident. The registered owner of the vehicle cannot absolve himself of his responsibility merely by contending that he had sold the vehicle prior to that date, even more so, when he had taken no further steps to get the fact of such sale registered with the Registration Authority or at least, intimating this fact to the Registration Authority and the Insurance Company. If such registered owner has allowed a third person, may be under a contract of sale, to use the vehicle, he remains responsible for his action. If such third person further allows a minor or a person not holding a



2023:DHC:8994



valid driving license to drive the vehicle, vicariously, the registered owner becomes responsible for such action of the third party.

20. In **IFFCO Tokio General Insurance Co. Ltd.** (supra), the Court was considering a case where the driver of the offending vehicle was found to be in possession of a fake driving licence. It was on those facts that the Court held that the registered owner cannot be fastened with any liability to get such licence verified from the issuing authority prior to hiring the services of the driver.
21. In **Kalawati Devi & Ors.** (supra), the registered owner had informed the Registering Authority about the sale of the offending vehicle prior to the date of the accident. It was in those facts that the Court held that the registered owner cannot be made liable to reimburse the Insurance Company.
22. In view of the above, I find no merit in the appeal filed by Sh.Indiwar Parijat. The said appeal, that is, MAC APP.600/2019, along with the pending applications, stands dismissed.
23. As far as the appeal filed by Sh.Rohit Rana is concerned, it was proved on record before the learned Tribunal that he was a minor as on the date of the accident. Further, he was not impleaded in the Claim Petition through his guardian. Even otherwise, in **Rashi Lal & Ors.** (supra), this Court in a case involving similar circumstances has held as under:

“19. In the instant case, the driver of the

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Signing Date: 15.12.2023

19:57:46

MAC. APP. NOS.600/2019 & 659/2019

Page 9 of 11



offending vehicle (Respondent No.4 herein) was a minor at the time of the accident. The right to recover the compensation to the Appellant Insurance Company thus cannot be granted against Respondent No.4 even if he attained the age of majority during the pendency of the Claim Petition. In Jawahar Singh v. Bala Jain, (2011) 6 SCC 425 it was held that where it was not possible for an awardee to recover the compensation from the driver of the vehicle, the liability to make the payment of compensation would fall on the owner of the vehicle. Para 11 of the report is extracted hereunder:-

11. It has been well settled that if it is not possible for an awardee to recover the compensation awarded against the driver of the vehicle, the liability to make payment of the compensation awarded fell on the owner of the vehicle. It was submitted that in this case since the person riding the motorcycle at the time of accident was a minor, the responsibility for paying the compensation awarded fell on the owner of the motorcycle. In fact, in Ishwar Chandra v. Oriental Insurance Co. Ltd. [(2007) 10 SCC 650, it was held by this Court that in case the driver of the vehicle did not have a licence at all, the liability to make payment of compensation fell on the owner since it was his obligation to take adequate care to see that the driver had an appropriate licence to drive the vehicle.”

24. In view of the above, and as there is no challenge by the respondent no.1 herein to the above position in law, the appeal filed by Sh.Rohit Rana, that is, MAC APP.659/2019, succeeds. The Impugned Award insofar as it allows the respondent no.1



2023:DHC:8994



that is, National Insurance Co. Ltd., to seek reimbursement of the claim amount from Sh.Rohit Rana, stands set aside.

25. There shall be no order as to costs.
26. The statutory amount deposited by the appellant, Sh.Rohit Rana, along with interest accrued thereon, be released in favour of the appellant.
27. MAC.APP.600/2019, filed by the registered owner- Sh.Indiwar Parijat, is dismissed. Pending application, if any, also stands disposed of.
28. The statutory amount deposited by the appellant in MAC.APP.600/2019, along with interest accrued thereon, shall be released in favour of the respondent no.1-National Insurance Co. Ltd., to be adjusted against the claim amount of the said respondent no.1 against the appellant.

NAVIN CHAWLA, J

DECEMBER 14, 2023
RN/RP

Click here to check corrigendum, if any

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19:57:46

MAC. APP. NOS.600/2019 & 659/2019

Page 11 of 11