



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

FIRST APPEAL NO. 2925 OF 2018

Satish s/o Sopanrao Ronge  
age 40, occ. Driver  
r/o Jawalga, Tq. Renapur  
Dist. Latur.

.. Appellant

Versus

Eknath s/o Balal Khatal (died)  
through LRs

1. Dagdu s/o Eknath Khatal  
age 30 years, occ. Driver
2. Madhukar s/o Eknath Khatal  
age 28 years, occ. Nil
3. Sudhakar s/o Eknath Khatal  
age 22 years, occ. Nil  
All r/o Jawalga, Tq. Renapur  
Dist. Latur.
4. Ganpat s/o Bhujangrao Chavan  
age major, occ. nil  
r/o Yeshwantwadi, Tq. Renapur  
Dist. Latur
5. The New India Assurance Co. Ltd.  
Through its Branch Manager  
Gayatri Krupa, Chandra Nagar  
Ukka Marg, Latur  
Tq. & Dist. Latur

.. Respondents

Mr. S. C. Swami, Advocate for the appellant.  
Mr. N. D. Kendre, Advocate holding for Mr. U. L. Momale, Advocate for  
respondents No. 1 to 3.  
Mr. N. B. Jadhav, Advocate for respondent No. 4.  
Mr. S. R. Bodade, Advocate for respondent No. 5.

**CORAM : R. M. JOSHI, J.**

**DATE : 12<sup>th</sup> JANUARY, 2024.**

**JUDGMENT :**

1. Heard.
2. Admit. By consent, heard finally at admission stage.
3. This appeal is filed raising limited question as to whether the appellant/respondent no. 3 can be held liable for payment of compensation to the claimants as done by learned Tribunal by passing impugned award in MACP No. 102/2010.
4. In connection with an accident occurred on 11<sup>th</sup> March, 2017 involving tempo bearing registration No. MH 24 A 2837, claim petition bearing MACP No. 102/2010 came to be filed under Section 166 of Motor Vehicles Act ("MV Act" for short). The claim was initially filed against the registered owner of the vehicle. After filing of the written statement by registered owner to the effect that he had already sold the vehicle to respondent No. 3, subsequently, he came to be added as party respondent. Tribunal proceeded to frame issues and after recording evidence, held that respondent No. 3 has

purchased the offending vehicle from respondent No. 1 and the formality of its registration remained to be completed. With these findings, both respondents No. 1 and 3 were held equally responsible for payment of compensation.

5. Learned counsel for appellant/respondent No. 3 submits that he is not owner of the vehicle within meaning of Section 2(30) of Motor Vehicles Act. According to him, admittedly, the registration of the vehicle stands in the name of respondent No. 1 and as such, the award cannot sustain against him. In support of his submissions, he placed reliance on judgment of Hon'ble Apex Court in the case of Naveen Kumar vs. Vijay Kumar and others, **AIR 2018 SC 983**.

6. Learned counsel for respondent No. 1/registered owner of the vehicle opposed the said contention by referring to the evidence led before the Tribunal. According to him, evidence in the form of receipt Exhibit 51 sufficiently demonstrates that not only the vehicle was purchased by respondent No. 3 against payment of consideration but possession thereof was also passed on to the buyer. He further contends that there is evidence in order to hold that respondent No. 3 was in possession of the offending vehicle atleast three months prior

to the date of the accident. Thus, according to him, Tribunal committed no error in holding this respondent liable for payment of compensation. To support his submission, he placed reliance on judgment of Hon'ble Apex Court in case of Rajashtna State Road Transport Corporation vs. Kailash Nath Kothari and others, (1997) 7 Supreme Court Cases 481.

7. There is no dispute about the fact that respondent No. 1 was registered owner of the offending vehicle as on the date of accident. Once this fact is accepted, in view of definition of owner under Section 2(30) of the Motor Vehicles Act, the owner can be a person in whose name the motor vehicle stands registered. The definition of 'owner' is reproduced as under :-

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

8. Perusal of the said definition shows that owner is the person in whose name motor vehicle stands registered. The only exception to the same is in case if any person is in possession of the vehicle in an agreement of hire-purchase, agreement to lease or agreement of hypothecation, would be treated as owner.

9. Hon'ble Apex Court in case of Naveen Kumar(supra) by taking into consideration definition of owner and other relevant provisions of the Act and also after taking into consideration precedents has held that,

“11. .... 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 Act of 1939. 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.

Reverting back to the facts of present case, admittedly, on the date of accident offending vehicle stood in the name of respondent No. 1, in the record of registration. Though respondent No. 1 has claimed that he has sold the vehicle to respondent No. 3 but he remained as registered owner thereof. As such, the present case is not covered by three exceptions provided by Section 2(30). The judgment in case of Naveen Kumar (supra) therefore squarely applies to the present case. The judgment and the issue in case of Rajasthan State Road Transport (supra) deals with the different facts, whether the hirer in possession and control of the vehicle was to be treated as owner. In view of definition of owner under Section 2(30) of the Act, the said observations are made and the person who was the hirer in possession and control of the vehicle was also held vicariously liable. In respectful view of this Court, the said judgment has no application to the present case. Since respondent No. 3 is not registered owner of the offending vehicle as contemplated by Section 2(3) of the Act by following judgment in case of Naveen Kumar (supra), liability to pay compensation under MV Act cannot be fastened on him and the claim would not be tenable against him. As such, the impugned award deserves interference to that extent.

10. In the result, appeal is allowed. Order passed by Tribunal holding respondent No. 3 liable for payment of compensation to the claimant is set aside. Except for respondent No. 3, no other party to the said litigation has challenged the said award, hence, rest of the award has attained finality. Hence, rest of the award remains unchanged. Statutory amount deposited be refunded to the appellant.

( R. M. JOSHI)  
Judge

dyb