



WEB COPY



C.M.A.No.993 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.993 of 2022
and
Civil Miscellaneous Petition No.7372 of 2022

B.Babu

... Appellant / 1st Respondent

Vs.

1. Sambu @ Sampooram

2. Nandhakumar

3. Kiruba

4. Menaka

... Respondents / Petitioners

5. Myilsamy

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 21.04.2017 made in M.C.O.P.No.92 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mettur, Salem District.

For Appellant : Mr. R. Abdul Mubeen, Senior Counsel
For Mr. S. Rajakumar

For R1 to R4 : Mr. M. R. Jothimanian

For R5 : Ex-parte

JUDGMENT



C.M.A.No.993 of 2022

This Civil Miscellaneous Appeal has been filed by the first respondent in the claim petition, challenging the award passed by the Tribunal in M.C.O.P.No.92 of 2010, dated 21.04.2017, wherein, the appellant has been directed to pay the compensation amount to the claimants therein.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimants have come forward with the claim petition seeking compensation for the death of one Natarajan in the motor vehicle accident taken place on 07.07.2010 at about 9.00 a.m., while the deceased was riding a two-wheeler on Mecheri to Mettur Main Road near Lavanya Theater. The first respondent was the rider of the offending vehicle. The second respondent is the registered owner of the offending vehicle. The claimants claimed a sum of Rs.30 lakhs as compensation by invoking Section 166 of the Motor Vehicles Act, 1988.

4. The first respondent contested the claim and disputed the manner in which the accident had taken place and also stated that the second respondent is the registered owner of the vehicle hence he is not liable to pay the compensation. The second respondent remained ex-parte before the



C.M.A.No.993 of 2022

Tribunal.

WEB COPY

5. Based on the evidence placed on record, the Tribunal in point No.1 has held that the first respondent has negligently rode the two-wheeler and caused the accident. In point No.2, it has been held that both the respondents are liable to pay the compensation and since the second respondent is the registered owner he could not be exonerated from paying the compensation to the claimants.

6. Aggrieved over the award directing the first respondent to pay compensation to the claimants, this appeal has been filed by the first respondent.

7. The learned counsel for the appellant/first respondent submits that there is Affidavit-Ex.R1 marked before the Tribunal to show that the motor vehicle, which was involved in the accident was sold in favour of the second respondent. This was taken note by the Tribunal however, after accepting Affidavit-Ex.R1, it has been held that the transfer of ownership of the vehicle has not been effected in the Registration Certificate and thereby, directed the first respondent to pay the compensation, which is not proper



and prays to set aside the same.

WEB COPY

8. The learned counsel for the claimants submitted that though it has been stated in the affidavit marked as Ex.R1 that the two-wheeler involved in the accident was sold in favour of the second respondent for a sum of Rs.7,500/- but legally, no such records to prove the transfer of ownership was taken place hence, the respondent No.1/appellant is liable to pay the compensation.

9. I have considered the rival submissions made on both sides and also perused the records available.

10. The Motor Vehicle Act provides the procedure for legally transferring ownership of motor vehicle under Section 50 read as follows:

“50. Transfer of ownership.—(1) Where the ownership of any motor vehicle registered under this Chapter is transferred,—

(a) the transferor shall,—

(i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; and



C.M.A.No.993 of 2022

(ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i)—

(A) the no objection certificate obtained under Section 48; or

(B) in a case where no such certificate has been obtained,—

(I) the receipt obtained under sub-section (2) of Section 48; or

(II) the postal acknowledgement received by the transferee if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in Section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted;

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

(2) Where—

(a) the person in whose name a motor vehicle stands registered dies, or

(b) a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of Government, the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his name, to the registering authority in whose jurisdiction he has the



WEB COPY



C.M.A.No.993 of 2022

residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government.

(3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2) (hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be taken against him under Section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5):

Provided that action under Section 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount.

(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under Section 177.

(5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2).

(6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of ownership to be entered in the certificate of registration.

(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and



C.M.A.No.993 of 2022

to the original registering authority, if it is not the original registering authority.”

11. Section 50 (old section 31) of the Motor Vehicles Act, 1988 makes it mandatory that transfer should intimate the RTO in prescribing from within 14 days of sale about the sale and in default the transferer is liable to the third parties.

Section 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;

12. This Section was interpreted by the Apex Court in ***Dr. T.V. Jose v. Chacko P.M.*** MANU/SC/1691/2001 : (2001) 8 SCC 748. In paragraphs 9 and 10 of the decision, the Court observed and held as follows:

“9 . Mr. Iyer appearing for the Appellant submitted that the High Court was wrong in ignoring the oral evidence on record. He submitted that the oral evidence clearly showed that the Appellant was not the owner of the car on the date of the accident. Mr. Iyer submitted that merely because the name had not been changed in the records of R.T.O. did not mean that the ownership of the vehicle had



not been transferred. Mr. Iyer submitted that the real owner of the car was Mr. Roy Thomas. Mr. Iyer submitted that Mr. Roy Thomas had been made party-Respondent No. 9 to these Appeals. He pointed out that an Advocate had filed appearance on behalf of Mr. Roy Thomas but had then applied for and was permitted to withdraw the appearance. He pointed out that Mr. Roy Thomas had been duly served and a public notice had also been issued. He pointed out that Mr. Roy Thomas had chosen not to appear in these Appeals. He submitted that the liability, if any, was of Mr. Roy Thomas.

10. We agree with Mr. Iyer that the High Court was not right in holding that the Appellant continued to be the owner as the name had not been changed in the records of R.T.O. There can be transfer of title by payment of consideration and delivery of the car. The evidence on record shows that ownership of the car had been transferred. However the Appellant still continued to remain liable to third parties as his name continued in the records of R.T.O. as the owner. The Appellant could not escape that liability by merely joining Mr. Roy Thomas in these Appeals. Mr. Roy Thomas was not a party either before MACT or the High Court. In these Appeals we cannot and will not go into the question of inter se liability between the Appellant and Mr. Roy Thomas. It will be for the Appellant to adopt appropriate proceedings against Mr. Roy



WEB COPY

Thomas if, in law, he is entitled to do so.”

13. The Judgment has been considered by this Court in **S.N. Shanmugham Vs. Shankarlal Jain & Another** reported in **(MANU/TN/2363/2002 : 2003 (2) L.W. 126)** held that the registered owner would continue to be liable till the registration is changed in the registration record.

14. In the Judgment of Apex Court in **Pushpa Vs. Shakuntala** reported in **2011 (2) SCC 240 ; 2011 (1) SCR 334** it has been held that- "**(2011) 2 SCC 240**, the position has been clarified by holding that where notwithstanding the sale of a vehicle, neither the transferor nor the transferee have taken any step for change in the name of owner in the certificate of registration, the person in whose name the registration stands must be deemed to continue as the owner of the vehicle for the purposes of the Act.”

15. Similarly, the Judgment of the Apex Court in **Naveen Kumar Vs. Vijay Kumar and Others** reported in **2018 (3) SCC 1 : 2018 INSC 100**, it has been held that the aforementioned definition in Section 2(30) under the Motor Vehicles Act, the owner is the person, in whose name the vehicle is registered before the competent authority, under the Motor Vehicles Act. The issue with regard to sale of vehicle by the registered owner and the liability



to satisfy the amount of compensation under the Motor Vehicles Act, whether to be on the registered owner or the subsequent purchaser of the offending vehicle held thus:

"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 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



C.M.A.No.993 of 2022

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. ..."

16. Admittedly, in this case, the claimants have examined P.W.2 who is the official of the Regional Transport Office, through whom Ex.X1 Registered Certificate of two-wheeler marked and it has been stated that the appellant herein is the registered owner of the vehicle. This has been considered by the Tribunal further Ex.R1 is only an affidavit, states that the second respondent has accepted to purchase the two-wheeler belongs to the appellant. However, this affidavit was not properly proved or there is no evidence adduced to show that he sold the vehicle to the second respondent. Marking of Ex.R1-affidavit alone is not sufficient to prove the transfer of ownership and the Tribunal has rightly held that there is no proper Transfer of Ownership Certificate hence, the Tribunal has rightly held that the appellant is liable to pay the compensation and this Court is inclined to agree with the said finding and the same is hereby confirmed. With regard to the quantum of compensation is concerned, the parties have not raised any grievance regarding the same hence, this Court is not adverting into the quantum of compensation awarded.



C.M.A.No.993 of 2022

17. In the result, this Civil Miscellaneous Appeal is dismissed. The Award and Decree dated 21.04.2017 made in M.C.O.P.No.92 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mettur, Salem District is hereby confirmed. The appellant is directed to pay the compensation amount as awarded by the Tribunal together with interest at the rate of 7.5% per annum from the date of Claim Petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.92 of 2010, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mettur, Salem District, excluding the default period if any. On such deposit, the claimants are permitted to withdraw their respective share of the award amount, as determined by the Tribunal, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition stands closed.

19.12.2024

ssi

Index : Yes / No

Speaking Order : Yes / No

12/14



C.M.A.No.993 of 2022

Neutral Citation Case : Yes/No

WEB COPY

To

- 1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mettur, Salem District.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

K.RAJASEKAR,J.

ssi



WEB COPY



C.M.A.No.993 of 2022

C.M.A.No.993 of 2022

19.12.2024