



FAO No.3242 of 2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3242 of 2024 (O&M)

Reserved on: 12.07.2024

Pronounced on: 15.07.2024

Savinder Singh

.....Appellant

Vs.

Binder Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sarfraj Hussain, Advocate for the appellant.

DEEPAK GUPTA, J.

Whether a person recorded as registered owner of the offending vehicle in the Certificate of Registration, remains liable to pay the compensation amount to a third party, i.e. legal representatives of the deceased or the injured claimant, as the case may be, despite sale of the offending vehicle to some other person, is the precise question involved in the present appeal.

2. Facts, in brief, are that on 11.12.2020, a motor-vehicular accident was caused due to rash and negligent driving of Pick Up No.PB-11-Y-2599, resulting in death of Smt. Santo Bai. Savinder (*appellant herein*) was the registered owner of the offending vehicle, whereas the same was being driven by Binder Singh (*respondent No.1 herein*). Legal representatives of deceased- Santo Bai (*respondent N: 4 to 6 herein*) brought the claim petition under Section 166 of the Motor Vehicles Act, 1988 against driver and registered owner of the offending vehicle. Later on, subsequent purchasers of the offending vehicle were also impleaded as respondents to the claim petition. The Tribunal awarded the compensation of ₹13,10,000/-.

Since the vehicle was uninsured, the liability to pay the compensation was

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held to be that of the registered owner and the driver.

3. The case of the appellant- registered owner was that he had already sold the vehicle, prior to the accident to one Dada Motors (*respondent N: 2 herein*) by way of a delivery challan on 28.03.2019. Dada Motors had further sold the same to Surinder Kumar (*respondent N: 3 herein*) by way of an affidavit on 22.04.2019 and said Surinder had further sold the same to Binder Singh (*respondent No.1*), i.e. driver of the offending vehicle, by way of an affidavit on 06.06.2019. However, the Tribunal by relying upon **Anamika vs Jaipal Singh 2023 (2) TAC 31 [SC]**, held that registered owner shall remain liable to pay the compensation amount, though he would be entitled to take appropriate steps to effect the recovery from the vendee. However, he shall remain liable to the claimants.

3. By way of the present appeal, the registered owner i.e. Savinder has assailed the afore-said award by submitting that since the offending vehicle had already been sold to respondent No.1- driver- Binder Singh, who was its owner at the time of the accident and was in possession and control thereof, therefore, the appellant cannot be held liable to pay the compensation amount. Learned counsel has relied upon judgment of Hon'ble Supreme Court rendered in **Karikho Kri Vs. Nuney Tayang 2024 INSC 289**.

4. However, after hearing submissions of learned counsel for the appellant, this Court does not find any merit in the case.

5. The issue involved in this appeal was considered by Hon'ble Supreme Court in **Dr. T. V. Jose v/s Chacko P. M. Alias Thankachan AIR 2001 SC 3939** and it was held as under:-

“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



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accident. Mr. Iyer submitted that merely because the name had not been changed in the records of the 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.

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

This decision was later on followed in *Anamika Vs. Jaipal Singh's case (supra)*, which has also been referred by the Ld. Tribunal.

6. Apart from above, in **Naveen Kumar vs Vijay Kumar AIR 2018 SC 983**, the issue was considered at length by Hon'ble Supreme Court.

After citing a catena of authorities, it was held by the Apex Court as under:-

“12 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

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‘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. 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.

13 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 Dr T V Jose, 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.”

[underlined portion emphasised by this court]

7. As far as **Karikho Kri Vs. Nuney Tayang's case (supra)**, relied by learned counsel for the appellant is concerned, in that case the facts were that in the year 2019, Karikho Kri, an independent candidate, Dr. Mohesh Chai, candidate of the Bharatiya Janata Party, and Nuney Tayang, candidate of the Indian National Congress, contested the election to the Arunachal Pradesh Legislative Assembly. Karikho Kri emerged victorious with 7538 votes, while Dr. Mohesh Chai secured 7383 votes and Nuney Tayang secured 1088 votes. Nuney Tayang filed Election Petition before High Court, seeking a declaration that the election of Karikho Kri was void on the grounds mentioned in Sections 100(1)(b), 100(1)(d)(i) and 100(1)(d) (iv) of the Representation of the People Act, 1951 (for brevity, 'the Act of 1951'), as he did not disclose material particulars in his Affidavit filed in Form No.26 appended to the Conduct of Elections Rules, 1961. He also

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sought a consequential declaration that he stood duly elected from the said constituency. One of the issues before the High Court was:

'1. Whether there has been a non-disclosure of ownership of Hero Honda CD Dawn Motorcycle owned by the returned candidate, Shri Karikho Kri bearing registration No. AR-11-2446; Kinetic Zing Scooty owned by the wife of the returned candidate, Smti. Bagilu Kri bearing registration No. AR-11-4474; Van, Maruti Omni Ambulance owned by the wife of the returned candidate, Smti. Bagilu Kri bearing registration No. AR-11A-3100 and TVS Star City Motorcycle owned by Shri Goshinso Kri, the son of the returned candidate Shri Karikho Kri bearing registration No. AR- 11-6581, as is required to be disclosed under Clause 7(vi) of the Conduct of Election Rules, 1961, rendering the nomination of the returned candidate invalid?

The High Court was of the opinion that, notwithstanding the sale of the Kinetic Zing Scooty and the Maruti Omni Van in question in the year 2017 and the gifting of the TVS Star City Motorcycle in 2014, these vehicles continued to stand in the names of Bagilu Kri and Goshinso Kri, the dependent wife and son of Karikho Kri, on the relevant date. High Court allowed the election petition in part, declaring the election of Karikho Kri void under Sections 100(1)(b), 100(1) (d)(i) and 100(1)(d)(iv) of the Act of 1951, but rejecting the prayer of Nuney Tayang to declare him duly elected, as he had not led any evidence to prove the allegations levelled by him against Dr. Mohesh Chai, the candidate with the second highest number of votes. Aggrieved thereby, Karikho Kri and Nuney Tayang filed separate Civil Appeals under Section 116A of the Act of 1951 before the Apex Court.

8. Allowing the appeal of Karikho Bai, Hon'ble Supreme Court observed as under:

"22. Though it appears that the three vehicles in question still remained registered in the names of the wife and son of Karikho Kri, the question that arises is as to whether non-disclosure of such vehicles justified the attributing of a corrupt practice to Karikho Kri and the negating of his election on that ground. The High Court assumed that the non-disclosure of a vehicle registered in the name of a candidate or his dependent family members was sufficient in itself to constitute



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undue influence. In this context, the High Court placed reliance on the provisions of the Act of 1988 and the decision of this Court in *Naveen Kumar (supra)*.”

9. Hon’ble Supreme Court then held as under:

“27. Mere failure to get registered the name of the new owner of an already registered vehicle does not mean that the sale/gift transaction would stand invalidated and such a vehicle, despite being physically handed over to the new owner, cannot, by any stretch of imagination, be treated as still being in the possession and control of the former owner. Once it is accepted that the three vehicles in question were either gifted or sold before the filing of the nomination by Karikho Kri, the said vehicles cannot be considered to be still owned by Karikho Kri's wife and son for purposes other than those covered by the Act of 1988.”

10. Thus, it is clear that even in *Karikho Bai’s case (supra)*, cited by learned counsel for the appellant, it has been clarified that the registered owner shall remain liable for the purposes covered by the Act of 1988.

11. In view of the consistent view taken by Hon'ble Supreme Court right from *TV Jose's case (supra)* till *Naveen Kumar's case (supra)* and *Anamika's case (supra)*, it is held that learned Tribunal did not commit any error in holding the registered owner i.e. appellant of this case to be responsible for paying the compensation, though he has been given liberty to take appropriate steps to effect the recovery from the subsequent owner concerned.

12. As such, finding no merit in the present appeal, the same is hereby dismissed.

July 15, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No