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

% ***Date of decision: 08th October, 2024***

\+ **MAC.APP. 276/2021 & CM APPLs. 37153/2021, 37154/2021**

ABHIJIT KUMAR RAVIDAS .....Appellant

Through: Ms. Drishti Mittal, Advocate through VC.

versus

THE NATIONAL INSURANCE COMPANY LIMITED & ORS. .....Respondents

Through: Mr. Aditya Singh & Mr. Aditya Kumar, Advocates for R-1.

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\+ **MAC.APP. 58/2022 & CM APPLs. 10263/2022, 10264/2022**

ABHIJIT KUMAR RAVIDAS .....Appellant

Through: Ms. Drishti Mittal, Advocate through VC.

versus

NATIONAL INSURANCE COMPANY LTD. & ORS. .....Respondents

Through: Mr. Aditya Singh & Mr. Aditya Kumar, Advocates for R-1.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T ***(oral)***

1. The aforesaid two Appeals have been preferred under Section 173 of the Motor Vehicles Act, 1988 read with Section 151 of the Code of Civil

Procedure, 1908 to challenge the Judgment and Award dated 26.07.2019 by the appellant/owner of the offending vehicle wherein he has been held liable to pay the compensation amount.

2. It is submitted by the appellants that on 29.12.2016 the offending vehicle bearing No. DL 9C Z 2891 which was being driven by Ashish Azad, brother of Ms. Anju, met with an accident at 12:45 P.M in which the pillion rider on the motorcycle, Pramod Kumar Tripathi died while the motorcyclist Nirmal Sharma suffered injuries. The two Claim Petitions i.e. Petition No.93/2017 and Petition No.94/2017 were filed on behalf of the injured Nirmal Sharma and the claimants/legal heirs of the deceased, respectively. The Detailed Accident Report (DAR) along with the Chargesheet and all the documents therein, had also been filed before the learned Tribunal.

3. *The learned Tribunal in the Award, gave a finding* that the vehicle was registered in the name of the appellant Abhijit Kumar Ravidas and thus, held him liable to pay the compensation amount. While the vehicles were insured with the Insurance Company, but the recovery rights were granted to the Insurance Company since the driver Ashish Azad was found to be driving the vehicle without a driving license and had been charge sheeted for the same under Section 3/181 of the Motor Vehicles Act.

4. *Aggrieved by the recovery rights* granted against the owner the owner/Abhijit Kumar Ravidas, he has filed the present Appeals. The Appellant has taken a plea that he had sold the offending vehicle on 26.12.2016 to Ms. Anju D/o Sunehri Lal Azad R/o House No.I/120, H-Block, Gali No.6, Aya Nagar, New Delhi, who is now the actual owner of the offending vehicle. Form No.29 and 30, Cash Receipt and Receipt of handing over the possession of offending vehicle were duly executed in her

favour and the possession of the vehicle was also handed over to her. Unfortunately soon after the sale of the vehicle by the registered owner, the accident was caused by Ashish Azad, brother of Ms. Anju Azad (*the actual owner*) on 29.12.2016 which resulted in injuries to Nirmal Sharma and demise of Pramod Kumar Sharma.

5. It is submitted that the Appellant through his counsel, had appeared before the Tribunal on 09.10.2017 and filed a joint Written Statement with respondent No.2/Ashish Azad (driver) on 09.10.2017, wherein all the allegations were denied by them. It is claimed that respondent No.2/driver had assured the appellant that he would engage a lawyer and accordingly, he got the Written Statement prepared, the draft of which was not made available to him for review and his signatures were procured on the Written Statement by misleading him. It is only at the time of arguments that the Appellant came to know that the factum of sale of the offending vehicle to Ms. Anju on 26.12.2019 by the Appellant, had not been disclosed in the Written Statement. Thereafter, on 10.09.2019 the appellant and the driver/respondent No.2 filed their written arguments, wherein it was clearly stated that there were two owners of the offending vehicle; the first being the appellant and the second was Smt. Anju Azad.

6. The appellant has claimed that since the vehicle already stood sold on the date of accident, he had no liability to pay the compensation to the claimant. It was further contended that during the investigations of the FIR, Notice under S.133 MV Act had been given by the Police officials to the appellant and the same facts had been disclosed by him. Ms. Anju Azad was also served with the Notice under S.133 MV Act, wherein she also admitted these facts, which again reflects that the vehicle stood sold by the appellant

and he cannot be held liable to pay the compensation. . Moreover, the driver respondent No.2/Ashish Azad, of the offending vehicle was none other than the brother of Ms. Anju Azad.

7. It is explained by the Appellant that though the ownership could not be transferred in the name of second owner, but being the *actual owner* of the vehicle on the date of accident, she alone is liable to pay the compensation. Reference is made to Section 50(1)(a)(i) of the Motor Vehicle Act, which provides that the purchaser within 14 days from the date of purchase of the motor vehicle, shall report to the registering Authority for transfer of the ownership of the vehicle in his name.

8. The Chargesheet in FIR No.623/2016 under Section 279/337/304 IPC had been filed against him as well as the subsequent purchaser, Ms. Anju Azad. However, the learned M.M. in his Order dated 22.03.2019 observed that the documents as produced by the Appellant, clearly reflected that the vehicle stood sold to Anju Azad, though the vehicle was not transferred in the Transport Authority in her name. Considering the facts along with the supporting documents, it was held that it is only Anju Azad who is responsible as the owner of the offending vehicle and the Appellant was discharged under the said FIR.

9. It is asserted that in view of the aforesaid facts, the liability to pay the compensation is of the actual owner i.e. Ms. Anju Azad and no liability can be fastened on him since on the date of accident the vehicle stood sold to the subsequent purchaser. It is, therefore, contended that the impugned Award be set aside to the extent of holding him liable along with the driver Ashish Azad to reimburse the Insurance Company for the compensation to be paid by it.

10. **Submissions heard**.

11. The Appellant has not challenged the involvement of the offending vehicle in the accident or that the vehicle was being driven by respondent No.2 Ashish Azad. The only grievance is that since he had already sold the vehicle and had executed the requisite documents i.e. Form No.29 and 30 and also delivered the possession of the vehicle to the subsequent purchaser Ms. Anju Azad, he had ceased to be the owner of the offending vehicle on the date of accident and, therefore, no liability vis-a-vis the vehicle after the date of sale can be fastened upon him.

12. It is admitted by the Appellant himself in his Appeal that this aspect was never disclosed in the Written Statement filed jointly by him with the driver of the offending vehicle. This fact was disclosed for the first time in the written arguments filed on 10.07.2019. The copies of the transferred documents have also been annexed. It is, therefore, evident that these documents and the assertion of having sold the vehicle on the date of accident had not been mentioned in the pleadings before the Tribunal.

13. However, it cannot be over looked that these facts got mentioned by the Appellant in the Notice under Section 133 Motor Vehicle Act. Furthermore, the Chargesheet had been filed against him as well as the subsequent purchaser Ms. Anju Azad against whom the trial had continued while the Appellant has been discharged.

14. There is, therefore, sufficient evidence to establish that the vehicle stood transferred in the name of Ms. Anju Azad at the time of the accident, though the vehicle continued in his name and the Insurance Policy could not be transferred in the name of Anju Azad.

15. The Apex court in the case of *Prakash Chand Daga v. Saveta*

Sharma, (2019) 2 SCC 747, relying upon *T.V. Jose vs. Chacko P.M.,* (2001) 8 SCC 748 and reiterated by the Madhya Pradesh High Court, in *Ashok Kumar Mishra vs. Durgavati and Ors.,*MANU/MP/0161/2007, held that, even if a vehicle has been sold and its possession transferred with proof (like sale documents), the registered owner continues to be liable to third parties as long as their name remains in the RTO records. Therefore, vis-à-vis to third party, liability is characterized as "joint and several" between the registered owner and the new owner.

16. As held in *P.P. Mohammed* v. *K. Rajappan*, (2008) 17 SCC 624, merely because the vehicle was transferred does not mean that the registered owner stands absolved of his liability to a third person. So long as his name continues in RTO records, he remains liable to a third person. Thus, while transfer of ownership is permitted, the law places a specific obligation on the transferee (buyer) to report the transfer to the Registering Authority, submit the certificate of registration, and get the vehicle registered in their name. The failure of the new owner to update the registration, does not invalidate the sale itself, but it also doesn't eliminate the registered owner's liability.

17. Therefore, even though the Appellant had sold the vehicle on 26.12.2016, while the accident occurred on 29.12.2016 on which date he was not the actual owner of the vehicle, but because he continued to be the registered owner in the record of Transport Authority, he cannot avoid his liability along with that of the actual owner of the vehicle. The Appellant is not entitled to avoid his liability to pay the compensation as awarded by the learned Tribunal *vide* impugned Award dated 26.07.2019. However, his remedy if any, lies against the actual owner of the vehicle for which the Appellant is at liberty to pursue in accordance with law.

18. There is no merit in the present Appeals, which are hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 8, 2024/va