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

% **Date of decision: 19th March, 2024**

+ **MAC.APP. 169/2024**

PUNEET KAPUR

..... Appellant

Through: Mr. Ashish Mohan, Ms.
Pracheta K., Mr. Samarth
Chowdhary and Mr. Digvijay
Singh, Advs.

versus

RAJENDER KAUR & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J.(ORAL)

CM APPL. 17068/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 17069/2024 (Delay of 03 days in re-filing the present appeal)

3. This application has been moved on behalf of the appellant seeking condonation of delay of 03 days in re-filing the present appeal.
4. For the reasons stated in the application, the present application is allowed and delay of 03 days in re-filing the present appeal is condoned.
5. The application stands disposed of.



MAC.APP. 169/2024 and CM APPL. 17067/2024 (Stay)

6. The appellant, who is registered owner of offending vehicle, has preferred this appeal in terms of Section 173 of the Motor Vehicles Act, 1988¹ thereby assailing the judgment-cum-award dated 2312.2023 passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Shahdara, Karkardooma Courts, Delhi², whereby total compensation of Rs. 2,50,000/- with interest @ 8% per annum has been granted to the respondent No.1. As the offending vehicle was not insured, the liability for payment of compensation has been fastened on the shoulders of the appellant.

7. Briefly stated, the respondent No.1 filed a claim petition under Section 166 read with Section 140 of the MV Act seeking compensation for the injuries sustained by her mother Smt. Ajit Kaur in a motor accident on 25.11.2013 involving the offending car bearing registration No. DL2C-3247³ opposite I-Pocket, Kalandar Colony, Dilshad Garden, Delhi, which hit the rickshaw in which the deceased was travelling causing her grievous physical injuries. It is pertinent to mention here that the injured eventually died on 11.12.2013 at home, survived by the claimant i.e. the respondent No.1/daughter of the deceased.

8. Learned counsel for the appellant has vehemently urged that no credible evidence had been led by the claimant that any accident had occurred on 25.11.2013 involving the offending vehicle and there was led no worthwhile evidence so as to hold that driver of the offending

¹ MV Act

² Tribunal

³ Offending vehicle



vehicle was driving the same in a rash and negligent manner.

9. Learned counsel for the appellant alluding to the testimony of PW-3 (wrongly numbered as PW-2) Smt. Sheela vehemently urged that her version that the accident had been caused by the offending vehicle at the alleged time and place was highly questionable since PW-2 ASI Tooki Ram from PS Shahdara, who investigated the matter and filed the DAR⁴ in the present matter categorically stated that there was no eye witness to the accident except the injured.

10. Having heard the learned counsel for the appellant and on perusal of the record, at the outset, this Court finds that the present appeal is bereft of any merits. **First things first**, learned Tribunal framed issue No.1 so as to determine the factum of accident involving the offending vehicle on 25.11.2013 at 8.30 a.m and also as to whether the same was being driven in a rash and negligent manner thereby hitting the Rickshaw, resulting in injuries to the occupant/passenger Smt. Ajit Kaur.

11. A careful perusal of the impugned judgment-cum-award would show that the claimant examined herself as PW-1 and she placed on the record the copy of DAR along with annexed documents which are Ex.PW-1/5 (collectively). It is pertinent to mention the gist of the narrative of the testimony of PW-3 (wrongly numbered as PW-2), who in her affidavit filed in evidence categorically deposed that on 25.11.2013 at about 8.30 p.m. when she reached opposite I-Pocket, Kalandar Colony, Dilshad Garden, Delhi, she saw a car bearing registration No. DL2C-3247 being driven by its driver at a very fast

⁴ Detailed Accident Report



speed, rashly, negligently and without blowing any horn came and hit the Rickshaw with great force. She deposed that as a result of impact the Rickshaw overturned and Smt. Ajit Kaur, who was occupant of the said Rickshaw sustained grievous injuries and was removed immediately to East Delhi Medical Centre. However, what turns the table against the appellant, is her cross-examination, which goes as under:-

“The accident took place on 25.11.2013 between 8.00 to 8.30 am. On the day of accident, at about 8.30 am, I was returning from Mandir. The distance between mandir and spot of accident was about 50 steps. The accident took place in the right side of temple. The information of accident was given by me to daughter and son-in-law of deceased. The distance of my house and house of deceased was about 50 steps.

It is wrong to suggest that I am not an eye witness to this accident. It is wrong to suggest that I am deposing falsely.”

12. A bare perusal of the aforesaid cross-examination would show that presence of witness at the spot was not doubted. On being asked, she deposed that she was 50 steps away from the place of occurrence. She also stated that on the right side of road there was a temple. Mere bald suggestions that she was not an eye witness to the accident was not good enough in the absence of attributing her any motive so as to depose falsely in favour the claimant. Although, PW-2 IO/ASI Tooki Ram did testify that there was no eye witness but surprisingly he was not prodded as to how and in what manner he came to know about the involvement of the offending vehicle.

13. In view of the aforesaid evidence recorded at the behest of the claimant, it is difficult to discern that there was any blemish in the case of the claimant failing to substantiate the factum of accident.



There is no gainsaying that the proceedings before the learned Tribunal are in the nature of summary proceedings and there is nothing to discern that the learned Tribunal has committed any illegality, perversity or adopted any incorrect approach in holding that it was the driver of the offending vehicle who was responsible for causing the accident.

14. Faced with the aforesaid situation, learned counsel for the appellant urged that the appellant had already sold the offending vehicle to Mr. J.R.Bhamri, who was examined as R1W2, and who in his testimony acknowledged that he had purchased the vehicle from the appellant and later sold the same on 05.01.2004 to Satpal Singh. Be that as it may, in view of the fact that the appellant was the registered owner of the offending vehicle in terms of Section 2(30)⁵ of the MV Act, he cannot avoid any liability to pay compensation to the respondent No.1 in view of non- compliance of Section 50⁶ of the MV

⁵ (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;

⁶ **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

(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 transferred if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48,



Act.

15. In view of the foregoing discussion, I find that there is no merit in the present appeal. However, it is borne out from the record that the claimant took almost nine years to complete her evidence and the delay is clearly attributable to her. While discounting the period of two years on account of Covid-19 period, it would be unfair and

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



unreasonable to award compensation in the nature of interest @ 8% per annum. The simple interest as compensation is reduced to @ 6% per annum from the date of filing of the DAR till realization.

16. The appeal along with pending application stands disposed of.

DHARMESH SHARMA, J.

MARCH 19, 2024

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Signature Not Verified

Digitally Signed By: PRANAY KUMAR VATS
Signing Date: 21.03.2024
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