



\$~S-26

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

+ **LPA 344/2024 & CM APPL.25059/2024**

INDIWAR PARIJAT

..... Appellant

Through: Mr.Shouryendu Ray, Advocate
(through VC) with Ms.Neelu Mohan
and Ms.Vatsala Poddar, Advocates.

versus

NATIONAL INSURANCE COMPANY LIMITED & ORS.

..... Respondents

Through: Mr.Pankaj Seth, Advocate.

%

Date of Decision: 30th April, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

CM APPLs.25058/2024 and 25061/2024

1. Keeping in view the averments in the applications, the delay in filing/re-filing the present appeal is condoned.
2. Accordingly, the applications stand disposed of.

CM APPL.25060/2024 (Exemption)

3. Allowed, subject to all just exceptions.
4. Accordingly, the application stands disposed of.

LPA 344/2024 & CM APPL.25059/2024

5. Present appeal has been filed challenging the orders dated 14th December, 2024 passed by the learned Single Judge in MAC Appeal No.600/2019, whereby the learned Single Judge directed Respondent No.1 (National Insurance Company Ltd.) to pay compensation to Respondents

Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
Signing Date: 04.05.2024
19:08:15



No. 2 to 6, with a right of recovery from the Appellant herein on the ground that he was the registered owner of the motorcycle bearing No.DL-8S-BT-1129 ('Vehicle') despite having sold it to Shri Kender Singh Rana ('Buyer').

6. Learned counsel for the Appellant states that the Appellant herein had already sold the Vehicle to the Buyer on 28th April, 2017, which was acknowledged by a duly signed delivery receipt that clearly puts the legal onus and responsibility for the Vehicle's "*insurance, any other offence or misuse of any kind after taking delivery*" upon the Buyer. He states that the Vehicle was insured with Respondent No.1 at the time of the accident and the Buyer had assured the Appellant herein to get the insurance policy transferred to his name.

7. He states that the Appellant had sent several reminders to the Buyer in an effort to ensure that the registration records of the Vehicle were duly transferred. However, the Buyer not only failed to get the registration records of the Vehicle updated, he was also negligent as his son, Respondent No. 7, a minor at the time, took the Vehicle on road without a valid driving licence and met with an accident.

8. We are of the considered opinion that the present letters patent appeal filed against the judgment of the learned Single Judge of this Court in the first appeal is not maintainable as the same would amount to second appeal which is expressly barred by Section 100A of the Code of Civil Procedure, 1908 ('CPC') substituted by Act 22 of 2002. In this regard, it would be apposite to refer to the judgment of Full Bench of this Court in ***Avtar Narain Behal Vs. Subhash Chander Behal, 2008 SCC OnLine Del 1154***, whereby this Court authoritatively held that no letters patent appeal is maintainable against the judgment of the learned Single Judge in a first



appeal arising out of a special enactment such as Indian Succession Act, 1925.

9. At this stage, learned counsel for the Appellant states that the present appeal is maintainable in view of the judgment of the Supreme Court in *Chandra Kanta Sinha Vs. Oriental Insurance Co. Ltd. and Others, (2001) 6 SCC 158*. However, perusal of the said judgment reveals that it was decided on 12th May, 2001, whereas the amendment to Section 100A CPC was carried out w.e.f. 1st July, 2002.

10. Further, in the judgment of the Supreme Court passed in *Kamal Kumar Dutta and Another Vs. Ruby General Hospital Ltd. and others, (2006) 7 SCC 613*, it has been authoritatively held that after enactment of Section 100A CPC w.e.f. 1st July, 2002, the powers of the High Court in exercising the letters patent in a matter where a learned Single Judge has decided the appeal from the original order has been expressly taken away. In the said judgment, the Supreme Court was considering maintainability of the letters patent appeal before the Division Bench against the order passed by the learned Single Judge in an appeal filed under Section 483 of the Companies Act, 1956 against an order passed by the Company Law Board.

11. In view of the foregoing, this letters patent appeal is not maintainable and the same along with applications is accordingly dismissed with liberty to the Appellant herein to avail his appropriate remedy under law.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 30, 2024/TS

Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
Signing Date: 04.05.2024
19:08:15

LPA 344/2024

Page 3 of 3