



2024:DHC:10053



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 23rd December, 2024+ MAC.APP. 676/2024, CM APPL. 75862/2024 (stay)

PAWAN KUMAR

.....Appellant

Through: Mr. Karan Babuta and Ms. Annu,
Advocates.

versus

1. SMT. SUSHILA
W/o Sh. Ved SinghRespondent No.1
 2. SH. SUDHIR KUMAR
S/o Sh. Prem SinghRespondent No. 2
 3. SH. AJIT
S/o Sh. Karam VirRespondent No.3
 4. SH. VED SINGH
S/o Sh. Tara ChandRespondent No. 4
- Through: None

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CM APPL. 75863/2024 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL.75864/2024 (delay)

3. An Application under Section 5 of the *Limitation Act, 1963* read



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with Section 173 of the *Motor Vehicles Act, 1973*, has been filed on behalf of the Appellant for condonation of delay in filing the accompanying Appeal.

4. For the reasons stated in the Application, the delay in filing the accompanying Appeal, is condoned and the same is allowed.

5. The Application is accordingly disposed of.

MAC.APP. 676/2024

6. The Appeal under Section 173 of the Motor Vehicles Act, 1973 ('M.V. Act' *hereinafter*) has been filed on behalf of Mr. Pawan Kumar, Appellant, the registered owner against the Award dated 04.09.2024 *vide* which the compensation in the sum of Rs.38,55,100/- along with the interest @9% p.a., has been granted to the Claimants, on account of demise of Mr. Gaurav, aged about 23 years and 5 months, in a road accident on 21.10.2018 and the Appellant being the registered owner has been held liable along with the actual owner to pay the compensation.

7. The *only grievance* of the Appellant is that he was the registered owner but has sold the offending vehicle to the Respondent No. 3, Mr. Ajit and he is not liable to pay the compensation.

8. The *second ground* which is agitated is that the Appellant was not served before the learned Tribunal since allegedly the summons had been received by the brother, who does not even reside with the Appellant, there being no service against the Appellant. The impugned Award against the Appellant is liable to be set-aside.

9. **Submissions heard and the record perused.**

10. The *first ground* agitated is that there was no service affected upon the Appellant including in the Claim Petition, before the learned



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Tribunal. However, in case there was no service affected, the appropriate remedy was to file an Application under Order IX Rule 13 CPC for setting-aside of the Award, cannot be agitated as the ground in the present Appeal and is, therefore, not tenable.

11. The *second ground* which agitated is that though, he was a registered owner, he had already sold the vehicle to Mr. Ajit Singh and therefore, the liability, if any, to pay the compensation, is solely of Mr. Ajit Singh.

12. 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, the Apex Court 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, the registered owner cannot escape from his liability so long as the vehicle is registered in his name. Therefore, there is no merit in the Appeal, which is hereby dismissed.

13. The Appeal is disposed of accordingly along with the pending Application.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 23, 2024/RS