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

% ***Date of decision: 28th October, 2024***

+ **MAC.APP. 392/2017**

Hem Chandre RamAppellant

Through: Mr. R.P.S. Bhatti, Advocate.

versus

Shadab Khan @ Mohd Shadab & Ors (The New India Insurance Company)Respondent

Through: Mr. S.K. Vashistha and Mr. Ashish Tyagi, Advocates for R1 & R2.
Mr. JPN Shahi, Mr. Divyanshu Kumar, Mr. Shikhar Prakash, Advocates for R8.

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+ **MAC.APP. 394/2017**

Hem Chandre RamAppellant

Through: Mr. R.P.S. Bhatti, Advocate.

versus

Bushraa & Ors (The New India Insurance Company).....Respondent

Through: Mr. S.K. Vashistha and Mr. Ashish Tyagi, Advocates for R1 to R5.
Mr. JPN Shahi, Mr. Divyanshu Kumar, Mr. Shikhar Prakash, Advocates for R8.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Appeals under Section 173 of the *Motor Vehicle Act, 1988* has been filed by Mr. Hem Chandre Ram, the Appellant/registered owner of the offending vehicle i.e. Toyota Qualis bearing No. DL-4CP-0361, which was



being driven by Mr. Shadab Khan, driver/Respondent No. 1, in a rash and negligent manner hit the truck bearing No. HR-46-C-3582 parked on the side of the road from the rear end. As a consequence of the accident, the passenger Mr. Shadab Khan @ Mohd. Shadab received grievous injuries while Mr. Abdulla died. FIR No. 409/2013 under Section 279/337/338/304-A of the *Indian Penal Code, 1860* ('IPC', *hereinafter*), Police Station Massori, Ghaziabad was registered. On completion of investigations, and the Charge Sheet was filed in the Court.

2. *Two Claim Petitions* got filed by the injured and the LR's of the deceased respectively and the compensation was accordingly granted. However, the Insurance Company was exonerated as the Insurance of the offending vehicle was an "**Act Only**" Policy.

3. Mr. Hemchandre Ram, appellant has asserted that he had admittedly sold the vehicle to one *Mr. Amjad*, who thereafter sold it to the Respondent No. 2, *Mr. Zumma Ali*. The Insurance Policy was also existing in the name of Mr. Zumma Ali. However, the Insurance Company was exonerated since it was an *Act Only* Policy. The Appellant, Mr. Hem Chandre Ram along with Mr. Zumma Ali have been wrongly held jointly responsible to pay the compensation since he had already sold the vehicle, which was in the name of Mr. Zumma Ali, at the time of accident. He has claimed that he cannot be held liable to pay the compensation.

4. **Submissions heard.**

5. The *only ground* of challenge taken by the Appellant is that, even though he was the registered owner, he was not the actual owner and therefore, no liability can be imposed upon him in regard to the vehicle that was sold much prior to the date of accident.



6. The Apex court in 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.

7. As held in P.P. Mohammed v. K. Rajappan, (2008) 17 SCC 624, merely because the vehicle was transferred does not mean that such 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 doesn't invalidate the sale itself, but it also doesn't eliminate the registered owner's liability. Therefore, the Appellant being the registered owner of the offending vehicle, shall continue to be liable.

8. In light of the aforesaid Judgments, it is evident that the registered owner along with the actual owner continues to be liable, till his name is changed in the records of the Transport Authority. The right of the registered owner to recover the compensation paid by him, from the actual owner, but he cannot deny his liability to pay the compensation.

9. There is no infirmity in the Impugned Judgment dated 10.05.2016.



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The Appeals are dismissed and disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 28, 2024/RS