IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (MVA) No.5 of 2021
Date of Decision: 06.11.2026

Sanjeev Kumar .....Appellant

Versus

Smt. Sushila Devi and Others ....Respondents

Coram:

Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting? [1] *Yes.*

For the appellant:	Mr. Parkash Sharma, Advocate.
For the respondents:	Mr. Abhishek Verma, Advocate, for respondent No.1.
	Mr. Reham Tullah, Advocate, vice Mr. Karan Kapoor, Advocate, for respondent No.2.
	Mr. Bimal Gupta, Senior Advocate, with Mr. Trigun Singh Negi, Advocate, for respondent No.3.

Yogesh Jaswal, Judge: *(oral)*

The present appeal is directed against the award dated 31.10.2020, passed by the learned Motor Accident Claims Tribunal-II, Sirmaur District at Nahan, H.P. **(hereinafter referred to as 'learned MACT')**, in M.A.C. Petition No.58-N/2 of 2014, vide which the claim petition filed by respondent No.1 (petitioner before the learned MACT) was partly allowed and compensation of ₹43,683/- along with interest @9% per annum

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[1] *Whether the reporters of the local papers may be allowed to see the judgment? Yes.*

from the date of filing of the petition till realization of the amount was awarded in favour of respondent No.1 and the liability to satisfy the award was fastened upon the appellant (respondent No.1 before the learned MACT). (Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned MACT for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the petitioner filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, **(hereinafter referred to as 'the Act')** seeking compensation of ₹3,00,000/- for the injuries sustained by her in a motor vehicle accident that took place on 26.07.2012 at about 04:25 p.m. near Vishwa Karma Chowk, Devi Nagar, Paonta Sahib, District Sirmaur, H.P. It was asserted that on the said day and time, the petitioner was travelling on a scooter bearing registration No.HR-02G-0162, which was being driven by her husband Suresh Kumar, along with their minor son. When they reached near Vishwa Karma Chowk, a motorcycle bearing registration No.HP-17A-3414, driven by respondent No.2 in a rash and negligent manner, came from the Housing Board Colony side and hit the scooter. As a consequence of the collision, the scooter along with its riders fell

on the road and sustained multiple severe injuries. FIR No.274/2012 dated 26.07.2012 for the commission of offences punishable under Sections 279, 337 and 338 of the Indian Penal Code was registered against respondent No.2 at Police Station Paonta Sahib. The petitioner was initially taken to Civil Hospital, Paonta Sahib, and thereafter treated at Puran Hospital, Paonta Sahib, where she remained admitted. It was averred that the petitioner was a housewife doing agricultural work, earning ₹10,000/- per month, and had incurred substantial expenditure on medical treatment, special diet, attendants and transportation. Hence, the petition was filed seeking compensation.

3. The petition was resisted by respondent No.1 (appellant herein) by filing a reply, wherein it was asserted that the accident was caused due to the rash and negligent driving of the husband of the petitioner himself. It was denied that respondent No.2 drove the motorcycle rashly or negligently. Respondent No.1 specifically pleaded that he had sold the motorcycle bearing No.HP-17A-3414 to respondent No.3 (Sanjeev Kumar S/O Sh. Bhagmal) on 03.09.2008 and had no concern with the vehicle thereafter.

4. Respondent No.2 filed a separate reply denying the averments made in the petition and asserted that the husband of the petitioner himself was driving the scooter rashly and negligently and caused the accident, and that a false case was registered by the Police.

5. Respondent No.3 also filed a separate reply denying that any accident took place on 26.07.2012 with motorcycle No.HP-17A-3414. It was admitted that the motorcycle was owned and possessed by respondent No.1, but asserted that the same was never involved in any accident. It was further stated that the husband of the petitioner was a disabled person who lost control over his scooter, causing the fall and resultant injuries.

6. The learned MACT framed the following issues on 22.07.2017:

1. *Whether the petitioner received injuries on account of rash and negligent driving of offending vehicle i.e. motorcycle bearing No.HP-17A-3414 by respondent No.2 at place Vishwa Karma Chowk, Paonta Sahib, on 26.07.2012 at about 4:25 p.m., as alleged?...OPP*
2. *If issue No.1 is proved in affirmative, to what amount of compensation the petitioner is entitled to and from whom?...OPP*

3. *Whether the petition is not maintainable in the present form?...OPR-1*
4. *Whether the petitioner has not approached the court with clean hands and has suppressed the truth, as alleged?...OPR-1*
5. *Whether the accident took place due to rash and negligent driving of the scooter by the petitioner, as alleged?...OPR-3*
6. *Relief.*

7. The parties led oral and documentary evidence in support of their respective claims. The petitioner examined herself as PW-1 and tendered in evidence her affidavit Ext.PW-1/A, copy of FIR Ext.PW-1/B, MLC Ext.PW-1/C, treatment records Ext.PW-1/D and Ext.PW-1/E, discharge slip Ext.PW-1/F and medical bills Ext.P1 to Ext.P34. Respondent No.3 appeared as RW-1 and tendered his affidavit Ext.RW-1/A and screening report Ext.RW-1/B. RW-2 Sh. Dinesh Tomar, Advocate, and RW-3 Sh. Arun Grover, Advocate, were examined with regard to affidavits concerning the alleged sale and purchase of the motorcycle. Respondent No.1 stepped into the witness box as RW-4 and tendered his affidavit Ext.RW-4/A.

8. The learned MACT held that the accident occurred due to the rash and negligent driving of motorcycle No.HP-17A-3414 by respondent No.2. Taking into consideration the medical

bills, hospitalization and injuries, the learned MACT awarded a total compensation of ₹43,683/- under various heads, along with interest @ 9% per annum from the date of filing of the petition till realization. On the question of liability, the learned MACT held that as per the screening report of the registering authority, respondent No.1 continued to be the registered owner of the motorcycle. Relying upon the binding decisions of the Hon'ble Supreme Court in ***Naveen Kumar v. Vijay Kumar and others, (2018) 3 SCC 1***, and ***Prakash Chand Daga v. Saveta Sharma and others, (2019) 2 SCC 747***, the learned MACT fastened the liability to satisfy the award upon respondent No.1. Issues No.1 and No.2 were answered in the affirmative, and issues No.3 to No.5 were answered in the negative.

9. Feeling aggrieved by the award passed by the learned MACT, respondent No.1 has preferred the instant appeal. It has been asserted in the grounds of appeal that the learned MACT erred in fastening liability upon the appellant when he had already sold motorcycle bearing No.HP-17A-3414 to respondent No.3 on 03.09.2008 vide affidavit Ext.RW-3/A and delivered its possession. It was further asserted that respondent No.3 had subsequently transferred the vehicle to one Palden vide

document Ext.RW-2/A, which was duly proved by RW-2 and RW-3. Relying upon the judgment of the Hon'ble Supreme Court in ***HDFC Bank Ltd. v. Reshma and others, (2015) 3 SCC 679***, the appellant contended that the registered owner cannot be held liable if the vehicle was not in his possession and control. Challenge was also laid to the compensation awarded under the heads of medical expenses, pain and suffering, attendant charges and special diet, as well as the award of interest @9% per annum.

10. I have heard learned counsel for the parties and have gone through the record of the learned MACT with care.

11. Learned counsel for the appellant submitted that the learned MACT fell into error in fastening liability upon the appellant. The appellant had parted with the possession and ownership of the vehicle as far back as 03.09.2008 through an affidavit duly proved on record by the attesting Advocate. The vehicle was in the effective control of respondent No.3 and subsequent purchasers. Under the principles of possession and control recognized in *Reshma (supra)*, the appellant could not be mulcted with liability. He further argued that the compensation

awarded by the learned MACT is on the higher side and the interest awarded @ 9% per annum is excessive.

12. On the other hand, learned counsel for respondent No.1-claimant supported the award and contended that the claimant is an innocent third party who suffered injuries due to the rash and negligent driving of the offending motorcycle. The vehicle was unregistered in the name of any other person, and in the official records of the registering authority, the appellant continued to be the registered owner. Compliance under Section 50 of the Motor Vehicles Act was never made, and in view of the settled law, the registered owner remains liable to third parties. Learned counsel for respondent No.3 submitted that respondent No.3 had no concern with the vehicle and that the learned MACT rightly fastened the liability on the registered owner.

13. The first aspect that arises for consideration is whether the accident occurred on account of the rash and negligent driving of motorcycle No.HP-17A-3414 by respondent No.2. The petitioner, Sushila Devi, appeared in the witness box as PW-1 and clearly deposed that while she was travelling with her husband and minor son on scooter No.HR-02G-0162, the offending motorcycle driven by respondent No.2 at a high speed

collided with their scooter near Vishwa Karma Chowk. The prompt lodging of FIR Ext.PW-1/B by an independent shopkeeper, Naresh Kumar, who witnessed the accident, corroborates her version in all material particulars. The driver of the offending motorcycle, respondent No.2, chose not to step into the witness box to contradict the testimony of the petitioner or to offer his version of the occurrence. In proceedings under Section 166 of the Act, the standard of proof is preponderance of probabilities. An adverse inference was rightly drawn against respondent No.2 for failing to enter the witness box. The vague suggestion that the scooter was being driven negligently by the husband of the petitioner remained wholly unsubstantiated. Therefore, the finding of the learned MACT holding respondent No.2 guilty of rash and negligent driving is based on proper appreciation of evidence and calls for no interference.

14. The primary contention urged on behalf of the appellant is that having transferred the motorcycle to respondent No.3 on 03.09.2008 by way of an affidavit, he ceased to be in possession or control of the vehicle, and as such, could not be held liable as an owner. This submission cannot be accepted in view of the statutory scheme of the Act and the

authoritative pronouncements of the Hon'ble Supreme Court and this Court.

15. Section 2(30) of the Act defines an '**owner**' as follows:

> *"2(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."*

16. The definition of 'owner' under Section 2(30) makes it clear that for the purposes of the Act, it is the person in whose name the motor vehicle stands registered who is treated as the owner. The only exceptions carved out by the statute relate to minors and vehicles subject to hire-purchase, lease or hypothecation agreements. In the case of an ordinary transfer of a motor vehicle, Section 50 of the Act lays down a mandatory procedure. Section 50(1)(a)(i) requires the transferor to report the fact of transfer to the registering authority within fourteen days, and the transferee is likewise required to apply for transfer of registration within thirty days.

17. In the present case, the appellant admitted in his cross-examination as RW-4 that in the registration certificate, he is recorded as the owner of motorcycle No.HP-17A-3414. He

admitted that he never reported the fact of the alleged sale to the registering authority and never issued any notice to respondent No.3 to have the vehicle transferred in the official records. The official screening report Ext.RW-1/B also conclusively established that the motorcycle stood registered in the name of the appellant.

18. The question as to whether a registered owner continues to remain liable to third parties despite an unregistered sale or transfer of possession was settled by a three-Judge Bench of the Hon'ble Supreme Court in ***Naveen Kumar v. Vijay Kumar and others, (2018) 3 SCC 1***, wherein it was observed:

> *"13. The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression 'owner' in Section 2(30), it is the person in whose name the motor vehicle stands registered who, for the purposes of the Act, would be treated as the 'owner'. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability. Parliament has consciously introduced the definition of the expression 'owner'*

in Section 2(30), making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the 'owner' of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi.

14. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In Dr. TV Jose, this Court observed that there can be transfer of title by payment of consideration of delivery of the vehicle, but for the purposes of the Act, the person whose name is reflected in the records of the registering authority, is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled."

19. The same principle was reiterated by the Hon'ble Supreme Court in ***Prakash Chand Daga v. Saveta Sharma and others, (2019) 2 SCC 747***, wherein it was held that even though under civil law there may be a transfer of ownership of

the vehicle, that by itself does not absolve the person in whose name the vehicle stands in the RTO records from liability to a third party. So long as his name continues in the records of the registering authority, he remains liable.

20. This Court in ***Anil* Kumar *and Others v. Jyoti and Others*, *2022 SCC OnLine HP 6441***, after reviewing the statutory provisions and the judgments in *Naveen Kumar* and *Prakash Chand Daga (supra)*, held that third-party claimants cannot be made to suffer and cannot be deprived of the benefits flowing from beneficial legislation by following a trail of successive unregistered transfers. It was held that the person whose name is reflected in the registration certificate continues to be the owner for the purposes of the Act and remains answerable to third parties.

21. The Hon'ble Supreme Court in ***Brij Bihari Gupta v. Manmet and Others*, *2025 SCC OnLine SC 1650***, has again reaffirmed that a private agreement or delivery of possession without reporting the transfer under Section 50 of the Act does not extinguish the liability of the registered owner. It was held that the liability to pay falls squarely on the registered owner

and the claimant cannot be burdened to follow the trail of successive transfers.

22. Similarly, a Coordinate Bench of this Court in ***Labh Singh v. National*** **Insurance** ***Company Limited and others*****, 2026 SCC OnLine HP 5469**, held that for a legal and valid transfer of a motor vehicle, the provisions of Section 50 of the Act must be complied with. In the absence of such compliance, it is the registered owner who is liable to pay compensation to third parties. The fact that possession was delivered or that the vehicle was subsequently released on an application for *sapurdari* to an alleged transferee does not come to the aid of the registered owner.

23. The heavy reliance placed by learned counsel for the appellant on the judgment of the *Reshma (supra)*, to contend that the registered owner cannot be held liable if he has parted with possession and control of the vehicle, is completely misplaced and proceeds upon a fundamental misreading of the statutory provisions. In *Reshma (supra)*, the Hon'ble Supreme Court was dealing with the liability of a financier/bank where the vehicle was the subject matter of an agreement of hypothecation. Parliament has deliberately structured Section

2(30) of the Act into two distinct parts: the general definition designating the person in whose name the vehicle is registered as the owner, and specific exceptions carved out for minors as well as vehicles covered under hire-purchase, lease or hypothecation agreements, where the person in possession under that agreement is treated as the owner. The financier in *Reshma (supra)* fell squarely within the statutory exception governing hypothecation agreements. That principle cannot be imported into a transaction of an ordinary, unregistered sale between private individuals, which continues to be governed by the primary definition of registered owner read with the mandatory obligations under Section 50 of the Act.

24. Indeed, this precise argument was raised before and authoritatively rejected by a three-Judge Bench of the Hon'ble Apex Court in *Naveen Kumar (supra)*, wherein it was explicitly observed that relying upon *Reshma (supra)* to absolve a registered owner who purports to transfer a vehicle without mutating the records of the registering authority is based on a complete misconstruction of law. An innocent third-party claimant cannot be prejudiced by private affidavits of transfer that have never been reported to the registering authority. The

appellant, being the registered owner of the motorcycle in the records of the registering authority on the date of the accident, remains statutorily liable to third parties. Therefore, the learned MACT committed no error in fastening the liability upon the appellant.

25. Adverting now to the quantum of compensation, the petitioner claimed that she suffered grievous injuries, remained hospitalized and incurred medical expenses. The petitioner produced medical bills Ext.P1 to Ext.P34 totaling ₹8,683/-, which were duly supported by treatment records and discharge slips. The learned MACT rightly allowed a sum of ₹8,683/- towards medical charges. Considering the period of hospitalization and treatment, the learned MACT awarded ₹5,000/- towards attendant charges and ₹15,000/- towards special diet, which cannot be said to be excessive. Having regard to the nature of injuries and trauma sustained by the petitioner, the award of ₹15,000/- towards pain and suffering is modest, fair and just. The total compensation of ₹43,683/- awarded by the learned MACT represents just and reasonable compensation within the meaning of Section 168 of the Act and does not warrant any reduction.

26. Insofar as the award of interest @ 9% per annum from the date of filing of the petition till realization is concerned, the same is in accordance with the settled principles governing compensation in motor accident claims and falls well within the sound discretion exercised by the learned MACT. No ground is made out to interfere with the rate of interest.

27. No other point was urged.

In view of the above, the present appeal fails and the same is dismissed, so also pending miscellaneous application(s), if any.

(Yogesh Jaswal),
Judge

November 06, 2026
(Rajeev Raturi)