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C.M.A.No.2800 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 21.01.2026**

CORAM :

**THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR**

**AND**

**THE HONOURABLE MR. JUSTICE R. SAKTHIVEL**

**C.M.A.No.2800 of 2016**

**and**

**C.M.P.No.20284 of 2016**

M/s.ICICI Bank Limited,  
Ram Nagar Branch,  
Ram Nagar,  
Coimbatore,  
and having its Zonal Office  
West Wing, Plot No.24,  
South Phase, Industrial Estate,  
Ambattur, Chennai – 600 058.

... Appellant

Vs.

1.M.Dhanalakshmi  
2.M.Deepthi  
3.M.Dhivya  
4.M.Dhanyasri  
5.N.Sivakumar

6.M/s.The New India Assurance Co. Ltd.,  
No.11-19, 20, Govt. Arts College Road,  
Coimbatore – 641 018.

7.G.Rangaraj

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8.The Proprietor,  
M/s.Sri Amman Auto Consulting,  
Gandhi Road,  
Karandhai,  
Tanjore – 629 001.

... Respondents

**Prayer** : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal/IV Additional District Judge, Coimbatore, on 22.03.2016 in M.C.O.P.No.451 of 2010.

|               |   |                                           |
|---------------|---|-------------------------------------------|
| For Appellant | : | Mr.S.Suresh<br>for Mr.T.Srinivasaraghavan |
| For R1 to R4  | : | Mr.L.Mouli                                |
| For R6        | : | Mr.J.Michael Visuvasam                    |
| For R5 and R7 | : | No appearance<br>(Notice served)          |
| R8            | : | Unserved (incorrect address)              |

### **J U D G M E N T**

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Challenging the judgment and decree passed by the Motor Accident Claims Tribunal/IV Additional District Judge, Coimbatore, (hereinafter referred to as “the Tribunal” for brevity) dated 22.03.2016 in

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M.C.O.P.No.451 of 2010, the present Civil Miscellaneous Appeal has been filed.

2.The 1<sup>st</sup> respondent is the wife of the deceased Mohanan. The respondents 2 to 4 are the daughters of the deceased.

3.On 07.02.2009, when the deceased Mohanan was proceeding in his motor cycle bearing Reg.No.TN-37-AL-4469 to go to ATM Centre near Railway Station, from South to North direction, the 5<sup>th</sup> respondent came in his motor cycle bearing Reg.No.TN-38-AH-4379 in the opposite direction, i.e., from North to South, and dashed against the two wheeler of the deceased, due to which, the deceased sustained grievous injuries. Thereafter, the deceased was admitted in the hospital and subsequently, on 21.03.2009, he succumbed to the injuries.

4.It is the case of the respondents 1 to 4 that the deceased was a Contractor by profession and he was earning a sum of Rs.15,000/- per month from his business. Hence, the respondents 1 to 4, being the legal heirs of the deceased, filed a claim petition before the Tribunal in M.C.O.P.No.451 of



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2010, seeking a compensation of Rs.11,00,000/-.

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5.Before the Tribunal, it is the contention of the 5<sup>th</sup> respondent (driver of the offending vehicle) that he drove the motor cycle in a very careful manner, whereas, the deceased, while overtaking a Bus, dashed against the 5<sup>th</sup> respondent's motor cycle, as a result of which, the deceased fell down from the motor cycle and sustained injuries. Thereby, the 5<sup>th</sup> respondent disputed the rash and negligence on his part.

6.It is the contention of the 6<sup>th</sup> respondent, who is the Insurer of the motor vehicle of the deceased, that the offending vehicle bearing Reg.No.TN-38-AH-4379 was not insured with them and according to them, the accident was due to the rash and negligence of the rider of the offending vehicle. Besides, they disputed the age and income of the deceased.

7.Before the Tribunal, it is the contention of the appellant/ICICI Bank that they are a financier and that the offending vehicle, driven by the 5<sup>th</sup> respondent, bearing Reg.No.TN-38-AH-4379, was purchased by the 7<sup>th</sup> respondent and the appellant financed for such purchase and there was a



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loan agreement executed between the appellant and the 7<sup>th</sup> respondent.

According to the appellant Bank, the offending vehicle was repossessed by them on 19.03.2008 on account of the default committed by the 7<sup>th</sup> respondent/borrower of the loan. Thereafter, the vehicle was sold in public auction on 07.06.2008. According to them, the vehicle was auctioned by Matex Net Private Limited by way of online auction and in the said e-auction, the vehicle was sold to 8<sup>th</sup> respondent, after repossession of the vehicle, much prior to the accident. Therefore, the appellant disputed their liability.

8.The 8<sup>th</sup> respondent, who is the alleged auction purchaser, remained *ex parte* before the Tribunal.

9.Based on the contentions of the parties, the Tribunal framed the following issues :

1. *Whether the petition mentioned accident occurred due to the rash and negligent driving of the vehicle bearing Reg.No.TN-38-AH-4379 ?*
2. *Who is liable to pay compensation ?*
3. *Whether the petitioners are entitled for compensation ?*





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| <i><b>Sl.No.</b></i> | <i><b>Head</b></i>                                | <i><b>Amount awarded</b></i> |
|----------------------|---------------------------------------------------|------------------------------|
| 1.                   | Loss of Income                                    | Rs.14,43,852/-               |
| 2.                   | Love and Affection                                | Rs.50,000/-                  |
| 3.                   | Loss of consortium for 1 <sup>st</sup> petitioner | Rs.50,000/-                  |
| 4.                   | Funeral expenses                                  | Rs.15,000/-                  |
| 5.                   | Medical expenses                                  | Rs.3,75,000/-                |
| 6.                   | Medical attendant                                 | Rs.10,000/-                  |
| 7.                   | Transport to Hospital                             | Rs.5,000/-                   |
| 8.                   | Damages to clothing and articles                  | Rs.2,500/-                   |
|                      | Total                                             | Rs.19,51,352/-               |
|                      | Rounded off to                                    | <b>Rs.19,50,000/-</b>        |

12.Thus, the Tribunal awarded a total compensation of Rs.19,50,000/- and held that the appellant, who is the financier and who is in control and possession of the offending vehicle, was liable to pay the amount.

13.Challenging the liability fastened by the Tribunal, the appellant Bank has filed the present Appeal before this Court.



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14.The main contention of the learned counsel for the appellant is that, though the appellant was a financier and there was a loan agreement entered into by the 7<sup>th</sup> respondent, since there was a default committed by the 7<sup>th</sup> respondent, the vehicle was repossessed by the appellant on 19.03.2008. According to him, later, the vehicle was sold in e-auction conducted on 07.06.2008, to the 8<sup>th</sup> respondent. Hence, it is his contention that, on the date of accident, i.e. on 07.02.2009, the offending vehicle was not under the control of the appellant Bank, as the same had already been sold to the 8<sup>th</sup> respondent much prior to the date of accident. Therefore, it is his contention that the trial Court, fixing the liability as against the appellant to pay the compensation to the claimants, is not valid in the eye of law.

15.Whereas, the learned counsel appearing for the respondents/claimants would submit that, admittedly, the vehicle was repossessed by the appellant. It is his contention that, though the appellant would contend that there was an e-auction sale in favour of the 8<sup>th</sup> respondent, the sale has not been established. As long as the transfer or sale is not effected as per law, the person who was in control and possession as



per the agreement, has to be construed as the owner under the Motor Vehicles Act, 1988. Therefore, since the appellant Bank was in control and possession of the offending vehicle at the relevant point of time, the appellant cannot be absolved from the liability.

16.The deceased was aged about 57 years at the time of accident. The Tribunal has analysed the oral and documentary evidence and has found that the 5<sup>th</sup> respondent herein had driven the vehicle in a rash and negligent manner, which resulted in the accident, and has awarded compensation under various heads and the liability has been fixed on the appellant Bank. No one, including the appellant, has urged before this Court regarding the quantum or negligence aspect as held by the Tribunal. Only the liability has been questioned by the appellant on the ground that the vehicle has already been sold to the 8<sup>th</sup> respondent, even prior to the accident. Therefore, the only points that arise for consideration in this Appeal are as follows :

- (1) *Whether the offending vehicle bearing Reg.No.TN-38-AH-4379 was not under the control and possession of the appellant on the date of accident, i.e., on 07.02.2009 ?*
- (2) *Whether the offending vehicle was sold to the 8<sup>th</sup> respondent by way of e-auction ?*



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**Point Nos.(1) and (2) :**

17.It is the main contention of the appellant that they had repossessed the vehicle on 19.03.2008 from the 7<sup>th</sup> respondent, who had originally borrowed loan from the appellant for purchase of the said vehicle. It is also the admitted case of the appellant that there was an agreement executed between the 7<sup>th</sup> respondent and the appellant Bank. As the 7<sup>th</sup> respondent committed default in payment, the appellant Bank has repossessed the vehicle as per the terms of the agreement. According to the appellant, though the repossession was made on 19.03.2008, they sold the vehicle in e-auction to the 8<sup>th</sup> respondent on 07.06.2008. Therefore, the main contention of the appellant is that, on the date of accident, i.e., on 07.02.2009, they were not in the control and possession of the vehicle and only the 8<sup>th</sup> respondent, who purchased the vehicle in public auction, alone is liable to pay the compensation. To substantiate the alleged sale, the appellant has examined R.W.1 and marked Exs.R5 and R6. We have carefully perused the evidence of R.W.1 and Exs.R5 and R6. Absolutely, there is no material, whatsoever, to prove the sale. The evidence of R.W.1 itself clearly shows that the sale, as pleaded by the Bank, has not been established. Though R.W.1 has deposed



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that there was an e-auction, no material, whatsoever, placed on record to substantiate the stand of the appellant that there was a procedure followed to conduct e-auction. Except Exs.R5 and R6 stated to be the ledger relating to the delivery of possession, no other document, whatsoever, has been filed even to show that the amount has been realised on the particular date to the Bank account towards the sale of the vehicle. Even in Exs.R5 and R6 documents, there are lot of interpolations and corrections which have been admitted by R.W.1.

18. Even assuming that there was any sale conducted by the Bank, before such sale, the proper course for the Bank would have been to inform the Regional Transport Officer (RTO) about the repossession as per Section 51 of the Motor Vehicles Act, 1988. However, the appellant Bank has not taken any steps to inform about the repossession of the vehicle or transfer of the vehicle in their name before sale of the vehicle. That apart, even after the alleged sale, the appellant ought to have sent a communication to the RTO as per Section 50 of the Motor Vehicles Act, 1988. Absolutely, there is no material, whatsoever, placed on record to show that there were any steps taken to notify the alleged sale. As long as the mandatory procedure



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contained in the Motor Vehicles Act, 1988, is not followed, it has to be construed that, the appellant Bank, having repossessed the vehicle, was in control and possession of the vehicle and they should be construed as owner of the motor vehicle as per Section 2(30) of the Motor Vehicles Act, 1988, which reads as follows :

***“2.Definitions : .. (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 ;”***

19.In the absence of any evidence to substantiate the sale in the public auction to the third party, now, the appellant cannot contend that they are no way liable to pay compensation. Even the Bid Report (Ex.R3) filed by the appellant Bank indicates that the auction date was originally fixed on 27.05.2008 and the base price was fixed as Rs.10,250/-, however, there was no bidder. Except this, no other document is filed to show that later, the vehicle had been auctioned and purchased by the 8<sup>th</sup> respondent and the amount has been realised towards the sale. In fact, the statement of accounts to show that the loan account has been realised is also not filed. Therefore, merely on oral submissions without any proof, it cannot be said that the

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vehicle has already been sold in public auction to the 8<sup>th</sup> respondent. When the law mandates that transfer has to be effected in a particular manner and that a proper communication has to be sent to the RTO after repossession and after sale of the motor vehicle, when the same has not been followed, the appellant Bank, having repossessed the vehicle, cannot be absolved from their liability.

20.In such view of the matter, we do not find any merit in this Appeal as long as there is no dispute with regard to the quantum or negligence raised or urged before us. Therefore, this Civil Miscellaneous Appeal is dismissed.

21.The appellant is directed to deposit the remaining 50% of the compensation amount before the Tribunal, along with interest as ordered by the Tribunal, within a period of four weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.K., J.) (R.S.V., J.)  
21.01.2026

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Internet : Yes

Index : Yes / No

Speaking Order / Nonspeaking order

Neutral Citation : Yes

To

1.The Motor Accident Claims Tribunal,  
IV Additional District Judge,  
Coimbatore.

2.The Section Officer,  
VR Section,  
High Court, Madras.



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**N. SATHISH KUMAR, J.**  
**and**  
**R. SAKTHIVEL, J.**

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