
(2006) 03 RAJ CK 0092
In the Rajasthan High Court

Luggage Point

APPELLANT

Vs

Naim Ahmed and Others

RESPONDENT

Date of Decision : 08-03-2006

Acts Referred:

Citation : (2007) 1 ACC 82 : (2006) 3 WLC 684

Hon'ble Judges : Gyan Sudha Misra, J; Chatra Ram Jat, J

Bench : Division Bench

Judgement

Gyan Sudha Misra, J .

1. This appeal has been preferred against the judgment and order of the learned Single Judge passed in SBCWP No. 4512/2001 by which the writ petition preferred by the petitioner/appellant herein was dismissed with a cost of Rs. 2,000 and he was further directed to deposit the amount of interim compensation of Rs. 50,000 with the Tribunal with interest thereon as ordered by the Tribunal within a period of one month from the date of receipt of a copy of that order.

2. The controversy essentially is between the appellant-petitioner and the respondent No. 1 - Naim Ahmed who is the registered owner of vehicle No. RJ-14C-9784 to whom the vehicle had been transferred by the appellant/petitioner by seeking a delivery note from the respondent No. 1 after receiving the payment for the vehicle which is dated 5th November, 1996. However, the vehicle was not transferred with the RTO in favour of the respondent No. 1 Naim Ahmed although the vehicle had been delivered to him and he was plying the vehicle. The vehicle admittedly caused an accident on 9th March, 1999 as a result of which one Ramkaran died whose legal representatives filed a claim petition before the Motor Accident Claims Tribunal, Jaipur City, Jaipur for determining the amount of compensation for causing death of Shri Ramkaran. During pendency of the proceeding before the Tribunal, the amount of interim compensation of Rs. 50,000 was to be paid to the legal representatives and the appellant being the registered owner of the vehicle was directed to pay the

amount of compensation to the legal representatives of the deceased. The appellant before the Tribunal appeared and submitted that although the appellant was the registered owner of the vehicle, the said vehicle had been sold off to Shri Naim Ahmed after receiving the money from him and the vehicle was also delivered to him as already stated hereinbefore. Thereafter he has also taken the vehicle by virtue of Supurdaginama given on 15th May, 1999. In view of this factual position, the appellant filed an application for impleadment of the subsequent purchaser of the vehicle that is respondent No. 1 - Naim Ahmed. The application for impleadment of the subsequent purchaser was rejected vide order dated 20.7.2001, as a consequence of which the order passed earlier on 23.6.2000 directing the appellant to pay the interim compensation was to be made effective by the appellant. The appellant, feeling aggrieved with by both the orders, filed the writ petition before the learned Single Judge but the said writ petition was rejected by the learned Single Judge holding therein that the appellant being the registered owner of the vehicle, was liable to pay the interim compensation. The learned Single Judge also imposed a cost of Rs. 2,000 while dismissing the writ petition.

3. The aforesaid order passed by the learned Single Judge as also the orders passed by the Tribunal are under challenge in this appeal wherein it has been contended by learned Counsel Mr. N.K. Joshi on behalf of the appellant that although the appellant was a registered owner on the date when the accident took place, the respondent No. 1 Naim Ahmed in fact was in possession of the vehicle and it was used by him and his driver and hence this was a vital fact which should have been taken into consideration while fastening the liability on the registered owner.

4. Mr. Joshi, in support of his submission, has relied upon the judgments referred to herein as under:

Anand Sarup Sharma Vs. P.P. Khurana and others, Automobiles Transport (Rajasthan) Pvt. Ltd. and Another Vs. Dewalal and Others,

What is sought to be contended is that the registered owner, although technically and legally may be liable to pay the amount of compensation, the same is based on the presumption that the registered vehicle is in occupation of the registered owner but in a circumstance when the entire transaction of sale has taken place by receiving the money from subsequent purchaser and thereafter the vehicle also is delivered to the subsequent purchaser, then the legal obligation is on the purchaser to get it transferred in his name and if the same has not been done at least within a reasonable period, the previous owner should not have been held liable to pay the amount of compensation.

5. However, we do not propose to enter into this question at this stage since the Tribunal has not finally decided the claim petition and the matter is still subjoined where the appellant is a party and in view of the fact that provisions under the Motor Vehicles Act incorporating the provision for payment of interim

compensation makes it mandatory to pay the interim compensation, we do not think that it would be in the interest of justice to allow the parties to raise this question ^ of liability of payment even before the matter stands concluded as in that event the entire purpose of payment of interim compensation would get frustrated. Confronted with this situation learned Counsel Mr. Joshi has fairly stated that the appellant although will pay the amount of interim compensation, the Tribunal should be directed to implead the subsequent purchaser Shri Naim Ahmed as a party to the proceeding in view of the fact that he was actually the owner of the vehicle although legally he might try to seek some protection by not being the registered owner. We find this solution of payment of interim compensation by way of an interim measure as an acceptable one and, therefore, direct the appellant to deposit the amount of interim compensation with the Tribunal within a period of 15 days from the date of receipt of this order, which shall be disbursed in favour of the claimants immediately within a period of one week thereafter. The Tribunal shall then permit the impleadment of Shri Naim Ahmed as a party to the proceeding who may be given a fresh notice in regard to his impleadment so that he may contest the matter if he so chooses. Thus, in effect, the order passed by the Tribunal dated 20.7.2001 rejecting the application for impleadment shall be treated as quashed and set aside and Shri Naim Ahmed shall be treated as a party to the proceeding. The Tribunal shall then decide the matter after appreciation of evidence and the entire legal position as also the authorities which may be in support of either parties.

6. It goes without saying that the question of liability of the appellant as against respondent No. 1 - Naim Ahmed shall be finally decided by the Tribunal and if the appellant succeeds against Naim Ahmed he shall be liable to recover the amount from Naim Ahmed which, of course, will be decided eventually after conclusion of the proceeding.

The appeal, thus, stands partly allowed.