
(2011) 07 CHH CK 0048
In the Chhattisgarh High Court
Case No : M.A. (C) No. 1233 of 2007

Nepal Chand Agrawal

APPELLANT

Vs

Smt. Jalbati Bai and Others

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 55(2), 81
Motor Vehicles Act, 1988 — Section 166, 173, 50(1)

Citation : (2013) 2 ACC 628 : (2013) ACJ 898 : (2011) 4 CGLJ 572 : (2012) 2 TAC 473

Hon'ble Judges : I.M. Quddusi, J;Gulam Minhajuddin, J

Bench : Full Bench

Final Decision : Allowed

Judgement

Hon''ble Shri I.M. Quddusi, J.—List is being revised. No one appears for the respondents when the matter was called out twice. Therefore, we proceed to decide the case ex-parte. This appeal u/s 173 of the Motor Vehicles Act, 1988 has been filed against the award of II Additional Motor Accident Claims Tribunal, Bilaspur (in short "the Tribunal"), dated 6.9.2007 passed in Claim Case No. 65/06, insofar as the Tribunal has fastened the liability to pay compensation to the claimants upon the appellant, who is an old owner of the vehicle in question, which was sold on 16.8.2005 to another person i.e. respondent No. 8 Mohd. Shakeel.

2. Brief facts of the case are that on 1.2.2006 deceased Shyamdas Manikpuri was going on bicycle from his house at Sakri to Irrigation Department, Vyapar Vihar for his duties. He was riding the bicycle slowly by the side of the road. As soon as he reached near Sai Mangalam, respondent No. 8 by driving motorcycle bearing registration No. MP 26A-B/8963 on the wrong side of the road in a rash and negligent manner came from opposite direction and dashed Shyamdas Manikpuri, as a result of which he sustained severe injuries over his head, hands and chest and ultimately, died in hospital during treatment. The matter was

reported to Police Station : Tarbahar, whereupon offence was registered against respondent No. 8 and after completion of investigation, charge sheet was filed against him in the Court. The deceased was a government employee in the Irrigation Department and getting a salary of Rs. 6,500/- per month. In addition to this, he was also getting other allowances, totaling Rs. 25,000/- per annum. At the time of accident, he was 54 years and he used to contribute the entire income to his family. Therefore, the claimants being legal heirs of the deceased, filed a claim petition u/s 166 of the Motor Vehicles Act, 1988 (in short "the Act") claiming a total compensation of Rs. 18,83,000/- for the death of Shyamdas Manikpuri.

3 However, learned Tribunal after hearing counsel for the parties, on a close scrutiny of the evidence led by them, by the impugned award granted a total compensation of Rs. 4,15,712/- to the claimants with interest @ 6% per annum from the date of filing of claim petition till its payment is made, fastening the liability upon the appellant and respondent No. 8 jointly.

4. Heard learned counsel for the appellant, perused the LCR as also the impugned award.

5 The question for our consideration is - whether the appellant is responsible to pay compensation or it is respondent No. 8 to whom the vehicle was sold and under whose possession the vehicle was found and who had not got his name entered in the Certificate of Registration (RC) as owner from the date of purchase?

6. The documents seized by the police from the custody of respondent No. 8 were RC of two-wheeler sold to respondent No. 8 by the appellant and an affidavit dated 16.8.2005, which is, in fact, a sale letter in the form of affidavit, in which it has been, inter alia, mentioned that duly signed sale letter in Form No. 29/30 and other documents have been handed over to the buyer i.e. respondent No. 8 Mohammad Shakeel by the appellant, and if respondent No. 8 gets the said vehicle transferred in his name, the appellant has no objection.

7 Before proceeding further, it is necessary to consider the provisions of Section 50(1)(b) of the Act, which are as under :--

50. Transfer of ownership. -- (1) Whether the ownership of any motor vehicle registered under this Chapter is transferred, --

(a) xxxx xxxx xxxx xxxx

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

Therefore, it was the duty of the transferee to place the registration certificate along with necessary documents and the fee to get his name entered in the RC. If he had not got his name entered in the RC intentionally, he should not have been relieved from his liability, as for all purposes he was owner from the date of contract of sale and only a formality to enter his name in the RC of the ownership was to be done, which has not been done by respondent No. 8 intentionally, for which he cannot be given any benefit, including that he was not the owner of the vehicle in question.

8. Sub-rule (2) of Rule 55 of the Central Motor Vehicles Rules provides that an application for transfer of ownership of a motor vehicle under sub clause (ii) of clause (a) of sub-section (1) of Section 50 shall be made by the transferee in Form 30 and shall be accompanied by the Certificate of Registration, Certificate of Insurance and appropriate fee, as specified in Rule 81. Therefore, it is the transferee i.e. respondent No. 8, who had to produce Form 30 for getting his name entered in the RC.

9. With regard to Form 29, the same was also handed over to the transferee/respondent No. 8, as mentioned in the affidavit-cum-sale letter of the appellant, therefore, it was the duty of the transferee/respondent No. 8 to produce Form 29 also along with Form 30 for the purpose of getting his name entered in RC of the vehicle in question. The time period for submission of such documents has already been mentioned as 30 days in Section 50(1)(b) of the Act. Therefore, in no case, respondent No. 8 could have kept the documents with him and use the motorcycle without getting it transferred in his name beyond the period of 30 days. Since the transferee/respondent No. 8 has not done this, it amounts to violation of the provisions of the Act and as such, the transferee/respondent No. 8 should have been held exclusively liable to pay the compensation.

10 In the result, we allow this appeal, set aside the impugned award insofar as it fastens the liability upon the appellant and respondent No. 8 jointly, and relieve the present appellant from the liability to pay compensation to the claimants. The liability to pay compensation is fastened exclusively upon respondent No. 8.

11. No order as to costs. Certified copy as per rules.