

Prakash Chand Daga vs Saveta Sharma on 14 December, 2018

Equivalent citations: AIR 2019 SUPREME COURT 66, 2019 (2) SCC 747, AIRONLINE 2018 SC 855, (2019) 194 ALLINDCAS 92 (SC), (2019) 1 ALLMR 466 (SC), (2019) 127 CUT LT 944, (2019) 133 ALL LR 292, (2019) 194 ALLINDCAS 92, (2019) 1 ACC 49, (2019) 1 ACJ 1, (2019) 1 ALLMR 466, (2019) 1 CURCC 23, (2019) 1 GUJ LH 172, (2019) 1 JLJR 335, (2019) 1 KCCR 641, 2019 (1) KLT SN 1 (SC), (2019) 1 PAT LJR 368, (2019) 1 RAJ LW 455, (2019) 1 RECCIVR 372, (2019) 1 SCALE 22, 2019 (1) SCC (CRI) 795, (2019) 1 TAC 326, (2019) 2 ANDHLD 21, (2019) 2 CAL LJ 13, (2019) 2 JCR 44 (SC), (2019) 2 PUN LR 791, (2019) 3 CIVLJ 540, (2019) 3 MPLJ 384, (2019) 4 MAH LJ 514, (2019) 73 OCR 708, 2019 AAC 935 (SC)

Author: Uday Umesh Lalit

Bench: Dhananjaya Y. Chandrachud, Uday Umesh Lalit

Civil Appeal No.11369 of 2018
Prakash Chand Daga vs. Saveta Sharma & Ors.
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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.11369 OF 2018
(Arising out of SLP(Civil)No.27296 of 2018)

PRAKASH CHAND DAGA

...Appellant

VERSUS

SAVETA SHARMA & ORS.

...Respondents

JUDGMENT

Uday Umesh Lalit, J.

1. This appeal challenges the judgment and order dated 05.04.2018 passed by the High Court of Punjab and Haryana at Chandigarh in FAO No.7010/2011.

2. The appellant, original owner of a Santro Car sold said vehicle to Ms. Saveta Sharma, first respondent on 11.09.2009. According to the appellant, after receiving due consideration, the possession was transferred to said first respondent. An accident occurred on 09.10.2009 in which one Rakesh Kumar, second respondent, received injuries. In a claim lodged by second respondent, the Motor Accident Claims Tribunal assessed the compensation at Rs.12.47 lakhs and directed as under:

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“32. In view of my findings on the various issues above, the claim petition is allowed with costs and claimant is awarded total compensation of Rs.12,47,739/- (Rs. Twelve lacs Forty Seven Thousand Seven Hundred Thirty Nine only), Rs.11,58,489/- compensation for medical expenses etc. + Rs.60,000/- as compensation for pain and sufferings + Rs.18,000/- as compensation for loss of income + Rs.11,250/- as compensation for temporary disability from respondent No.2 and 3 alone. Keeping in view prevalent interest rates, the claimant shall also be entitled to interest on the above awarded amount at the rate of 7.5% per annum from the date of filing of petition till final realisation. The liability of the respondent No.2 and 3 to pay the compensation shall be joint as well as several. Memo of costs be prepared and file be consigned to records.”

3. Since the liability was fastened on the driver and first respondent, the aforesaid decision was challenged by them in the High Court by filing FAO No.7010/2011. The High Court found that despite the sale of the vehicle on 11.09.2009, no transfer of ownership, in accordance with Section 50 of the Motor Vehicles Act,1988 ('the Act' for short) was effected and as such the appellant continued to be the owner in terms of definition as incorporated in Section 2(30) of the Act. Relying on the decision of this Court in Naveen Kumar vs. Vijay Kumar and others¹ the High Court concluded as under.

“Applying the ratio of the above said judgment to the facts of the present case, the award stands modified to the above extent that the Insurance Company is liable to make the compensation to the claimant and the Insurance Company will have the recovery rights to 1 (2018) 3 SCC 1 Prakash Chand Daga vs. Saveta Sharma & Ors.

recover the same from the registered owner i.e. respondent No.1 of the offending vehicle. Remaining conditions of disbursal of amount shall remain unaltered.”

4. Learned counsel appearing for the appellant submitted that the accident had occurred within thirty days of the transfer when the statutory period as prescribed under Section 50(1)(b) of the Act had not expired and as such the liability could not be fastened on the present appellant. Though served, the transferee, namely, first respondent has chosen not to appear in the matter. We have gone through the record and considered the submissions advanced by the learned counsel for the appellant and the Insurance Company.

5. It is true that in terms of Section 50 of the Act, the transfer of a vehicle ought to be registered within 30 days of the sale. Section 50(1) of the Act obliges the transferor to report the fact of transfer within 14 days of the transfer. In case the vehicle is sold outside State, the period within which the transfer ought to be reported gets extended. On the other hand, the transferee is also obliged to report the transfer to the registering authority within whose jurisdiction the transferee has the residence or place of business where the vehicle is normally kept. Section 50 thus prescribes timelines within which the transferor and the transferee are required to report the factum of transfer. As per Sub-Section 3 of said Section 50, if there be failure to report the fact of transfer, fine could be imposed and an action under Section 177 could be taken against the transferor. *Prakash Chand Daga vs. Saveta Sharma & Ors.*

thereafter be taken if there is failure to pay the amount of fine. These timelines and obligations are only to facilitate the reporting of the transfer. It is not as if that if an accident occurs within the period prescribed for reporting said transfer, the transferor is absolved of the liability.

6. Chapter XII of the Act deals with Claims Tribunals and as to how applications for compensation are to be preferred and dealt with. While considering such claims, the Claims Tribunal, in case of an accident is required to specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or whether such amount be paid by all or any of them, as the case may be. It is well settled that for the purposes of fixing such liability the concept of ownership has to be understood in terms of specific definition of 'owner' as defined in Section 2(30) of the Act.

7. In *Pushpa alias Leela and Ors. Vs. Shakuntala and Ors.* 2 the vehicle in question belonged to one Jitender Gupta who was its registered owner. He sold said vehicle to one Salig Ram on 02.02.1993 and gave its possession to the transferee. Despite said sale, the change of ownership was not entered in the Certificate of Registration. The earlier insurance policy having expired, the transferee took out fresh insurance policy in the name of original owner Jitender Gupta. In an accident that took place on 07.05.1994 two persons lost their lives. The heirs and legal representatives lodged separate claims and an issue arose as to who was liable as owner. The submissions that Jitender Gupta, the registered owner had no control over the vehicle and the possession and control of the vehicle was in the hands of the transferee and as such no liability could be fastened on the transferor were rejected by this Court. It was observed in para 11 as under:

“11. It is undeniable that notwithstanding the sale of the vehicle neither the transferor Jitender Gupta nor the transferee Salig Ram took any step for the change of the name of the owner in the certificate of registration of the vehicle. In view of this omission Jitender Gupta must be deemed to continue as the owner of the vehicle for the purposes of the Act, even though under the civil law he ceased to be its owner after its sale on 2.2.1993.”

8. In the decision in *Naveen Kumar (supra)* the legal position was adverted to and this Court observed as under:

“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 Prakash Chand Daga vs. Saveta Sharma & Ors.

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 1939 Act. 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 (2015)3 SCC 679 and Purnya Kala Devi (2014) 14 SCC 142.

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 T.V. Jose (2001)8 SCC 748, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. 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.”

9. The law is thus well settled and can be summarised:-

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“Even though in law there would be a transfer of ownership of the vehicle, that, by itself, would not absolve the party, in whose name the vehicle stands in RTO records, from liability to a third person 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.” 3 The High Court was therefore absolutely right in allowing the appeal.

The challenge raised by the appellant must fail.

10. This appeal is dismissed. No costs.

.....J. [UDAY UMESH LALIT]J.
[DR. DHANANJAYA Y. CHANDRACHUD] New Delhi;

December 14, 2018.

3 P.P. Mohammed vs. K. Rajappan and Ors. (2008) 17 SCC 624 para 4