

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1278 OF 2017

(Arising out SLP (C) No. 7531 of 2014)

SUNIL SHIVAJI PATIL

Appellant(s)

VERSUS

ANITA RAVINDRA PATIL & ORS

Respondent(s)

O R D E R

1) Leave granted.

2) The only question which we have to consider is whether the appellant, who is the registered owner of the vehicle in question is liable on the given facts and circumstances. It is not in dispute that by way of an agreement to sell, the vehicle was already sold in favour of the new owner i.e. respondent No.6 herein and, in fact, the possession of the said vehicle was already parted with. It is also not in dispute that the registration certificate which was applied for transfer by the appellant was not at that point of time i.e. on the date of accident transferred in favour of Respondent No.6 and the vehicle was standing in the name of the appellant herein. However, it should be taken into account that the Claimants (Respondent Nos. 1-5 herein) filed the claim petition before the Motor Accidents Claim Tribunal (for short the 'Tribunal') claiming compensation under Section 166 of the Motor Vehicles Act, 1988.

3) It is obvious from the facts of the matter in question that at the relevant time, new owner (Respondent No.6) was driving the tempo and by virtue of the evidence which was put forward before the Tribunal, it came to the conclusion excepting the driver no one can be liable in respect of the claim for compensation. It held that Respondent No.6 only is liable to pay compensation to the claimants.

4) Heard the learned counsel appearing for the parties.

5) We have specifically taken into account Section 168 of the Motor Vehicles Act, 1988 which reads as follows:

"168. Award of the Claims Tribunal.- On receipt of an application for compensation made under Section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:

Provided that where such application makes a claim for compensation under Section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be

disposed of in accordance with the provisions of Chapter X.

(2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this Section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct."

6) From the above Section, it is evident that the Tribunal can hold an inquiry into the claim in the facts and circumstances of the case make an award determining the amount of compensation which appears to it to be just and specify the person to whom compensation shall be paid after verifying the facts and shall also specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident.

7) It appears from the facts and evidence that the Tribunal has specifically come to the conclusion that the driver of the vehicle involved in the accident is liable. In the facts and circumstances of this case, we are of the considered opinion that the Tribunal has correctly held and come to the conclusion in accordance with Section 168 of the Motor Vehicles Act holding the driver only liable to pay compensation to the claimants.

8) Learned counsel appearing for the respondent, in support of his submissions, has relied on certain decisions of this Court, namely, HDFC Bank Limited vs. Reshma and Others, (2015) 3 SCC 679 and P.P. Mohammed vs. K. Rajappan and Others, (2008) 17 SCC 624.

9) After going through the said judgments, in the facts and circumstances of this case, we feel that those judgments cannot be of any help in favour of the respondents. Rather, in our considered opinion, the liability has correctly been fastened with the driver of the vehicle in question on the given facts of this case.

10) In view of that, the High Court while deciding the matter in question has failed to appreciate the said fact that the award of the Tribunal was based on Section 168 and the right has been conferred on the Tribunal to specify who would be liable in case of such accident.

11) Accordingly, in our opinion, on the given facts, the judgment of the High Court is set aside and we affirm the order so passed by the Tribunal.

12) The appeal is allowed.

..... J.
(PINAKI CHANDRA GHOSE)

..... J.
(ROHINTON FALI NARIMAN)

New Delhi;
January 24, 2017.

ITEM NO.10

COURT NO.6

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7531/2014

(Arising out of impugned final judgment and order dated
17/09/2013 in FA No. 287/2012 passed by the High Court Of Bombay)

SUNIL SHIVAJI PATIL

Petitioner(s)

VERSUS

ANITA RAVINDRA PATIL & ORS

Respondent(s)

(with office report)

Date : 24/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Ms. Buva Mrunal Dattatraya, Adv.
Mr. Dhairyashil Salunkhe, Adv.
For Mr. Anantha Narayana M.G., AOR

For Respondent(s) Mr. Abdul Rahiman T., Adv.
Mr. Rahul Joshi, Adv.
For Mr. S. Gowthaman, AOR

UPON hearing the counsel the Court made the following
O R D E R

The judgment of the High Court is set aside and the appeal is
allowed in terms of the signed order.

(R. NATARAJAN)
Court Master

(NEELAM KANTA VIG)
Court Master

(Signed order is placed on the file)