

Ramaiah Setty Vs. Meena

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Court : Karnataka

Decided On : Aug-06-1990

Reported in : 1991ACJ300; ILR1991KAR937; 1990(2)KarLJ281

Judge : M.P. Chandrakantaraj Urs and ;M. Ramakrishna, JJ.

Acts : [Motor Vehicles Act, 1939](#) - Sections 31, 31(1), 92A and 110A

Appeal No. : M.F.A. Nos. 1308 and 1309 of 1990

Appellant : Ramaiah Setty

Respondent : Meena

Advocate for Pet/Ap. : Vishwanath S. Shettar, Adv.

Disposition : Appeal dismissed

Judgement :

M.P. Chandrakantaraj Urs, J.

1. These two appeals are by Sri Ramaiah Setty. The appellant before us was respondent No. 1 in Motor Vehicle Case Nos. 1716, 1717 and 1718/1987 on the file of the Motor Accident Claims Tribunal, No. VIII, Bangalore City.

2. The claimants had alleged that on 18-11-1987 at about 9-40 p.m. on P.S. Lane Road, Bangalore, when the petitioner in MVC.1716/1987 was proceeding on his

scooter, bearing registration mark MEV 6054 along with his wife and daughter (who were the petitioners in the other two connected petitions), a motor vehicle bearing registration mark CAI.6799 was driven at a high speed on P.S. Lane from the opposite direction and dashed against the scooter of the petitioner. Due to the impact the petitioner, his wife and daughter sustained injuries and the scooter was heavily damaged. After the accident the claimants were taken to Victoria hospital where they were treated. The petitioners had alleged that due to the rash and negligent driving of scooter bearing registration mark CAI.6799 by the second respondent, namely, Madhu, the accident occurred and therefore respondents 1 and 2 were liable to pay the damages to them by way of compensation for the injuries sustained by them. They claimed in the first petition Rs. 22,500/-, in the second petition Rs. 20,500/- and in the third petition Rs. 35,000/-. The claim petition came to be allowed and a sum of Rs. 1,600/- in the first petition, Rs. 2,500/- in the second petition and Rs. 3,000/- in the third petition came to be allowed by the Accident Claims Tribunal. Aggrieved by the same the first respondent has preferred these appeals against the order in so far as they relate to Motor Vehicle Case Nos. 1717 and 1718 of 1987 inter alia on the ground that he was not the owner of the vehicle but he had sold the same to one Ramachandra Naidu, on 27-9-1985 well before the accident which took place on 18-11-1987, who in turn had sold it to one Muniraju subsequent to the accident and therefore he was not liable to be saddled with the liability arising out of the accident. In other words the defence put forward was that two years prior to the date of accident the vehicle had been sold to the said Ramachandra Naidu and liability if any, arising out of the negligent driving by the second respondent of the scooter bearing registration mark CAI.6799 would be on Ramachandra Naidu and he was not the person to be saddled with liability.

3. In that behalf he had produced certain documents. They have been rejected on the ground that the transfer was not duly entered in accordance with the requirement of Section 31 of the [Motor Vehicles Act, 1939](#), he also produced a demand made by the Regional Transport Officer, Rajajinagar, Bangalore, calling upon him to pay arrears of tax in the sum of Rs. 863-60 ps.

4. Before us what is contended by the learned Counsel, Sri Vishwanath Shettar, is that the Vehicle having been transferred by the appellant in favour of Ramachandra Naidu, the mere handing over of possession of the Scooter and receiving of consideration in regard to it was sufficient to absolve him of the liability as the owner. In support of that proposition, he relied on the decision of the Supreme Court in the case of PANNALAL v. SRI CHAND MAL AND ORS. 1980 ACJ 233 wherein Section 31 of the Motor Vehicles Act as it stood in 1956 came up for consideration. The facts of that case were, Pannalal purchased a lorry from Manakchand. That lorry had a permit also. The permit was also purchased along with the lorry for a consideration. Considerations were paid, to the owner of the lorry and the permit holder of the permit. Thereafter Pannalal called upon the sellers to register the vehicle in his name. They failed to do that. He therefore filed a suit to recover the price he had paid to the lorry and the permit. The defendants resisted the suit inter alia on the ground that they had received the consideration and handed over the possession of the vehicle together with all the relevant papers connected with the vehicle and there was no further obligation on their part to do anything much less return the sale price. That defence was upheld and the suit was dismissed. On an appeal to the High Court, the High Court confirmed the same. Thereafter by a Special Leave Petition, the plaintiff moved the Supreme Court and Supreme Court concurred with the findings of the High Court and came to the conclusion that there was no obligation on the part of the transferors to do anything further after handing over possession of the vehicle in terms of the consideration received by them and after handing over possession of the lorry by the owner, it was for the transferee to report to the registering authority regarding the transfer and get the registration changed. We do not think that decision is of any assistance to the appellant before us. The Supreme Court had declared the law relating to the sale of goods and no more. The title to the moveable property passes on to the purchaser on his payment of consideration and taking possession of the moveable. Nothing more need be done in regard to the ascertaining, of title. But when we are dealing with a claim arising under Section 110A of the Motor Vehicles Act, we cannot ignore the duty cast on the owner notwithstanding the fact how he becomes a owner. Under Section 31(1)(b) as it was in [Motor Vehicles Act, 1939](#) which was as follows:

'Section 31(1).....

(a).....

(b) the transferee shall, within thirty days of the transfer, report the transfer to the Registering Authority within whose jurisdiction he resides, 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.'

(Underlining by us)

A specific mandatory duty is cast on the transferee to report the factum of transfer to the concerned Regional Transport Authority and get the vehicle registered in his name notwithstanding the fact that a similar obligation is on the transferor to report the transfer of the vehicle under Sub-section 1(a) of the Section 31. Section 31 of the Act itself requires the owner to seek the registration of the vehicle. The expression owner must, therefore, be given the same meaning throughout the Act. Under Section 113A of the Act, the owner is made responsible for the damages when he permits somebody else to ride and involve himself in an accident. Therefore, as long as some one is the registered owner under the Act, that owner alone is responsible under Section 92A. If any other view is taken, it is likely to lead to disastrous results. The victim of an accident or dependants of victim who dies in an accident are in a position to know as to who the true owner of the vehicle is from whom he or she or they must claim damages under the Act by finding out in whose name the vehicle stands under the Act. The authorities named under the Act are to keep such account of the Registration and subsequent transfer of vehicles.

5. Even under Karnataka Motor Vehicles Rules, 1963, Rule 346 provided for the necessary parties to be impleaded to the claim petition filed under Section 110A of the Act. Therefore, the owner should have the same meaning not only under Section 31 of the Act but in all other Sections and Rules framed under the Act unless the context otherwise demands. That is ordinarily the Rule of interpretation

of statutes. Therefore, registered owner is the only owner who is responsible. As earlier pointed out, any other view would lead to hardship to the victims or other claimants. Subsequent to the accident any number of documents may be got up in fictitious names that can never be traced and on whom the liability may be passed in the guise of transfer of title to the vehicle. That is to be avoided. Therefore, the argument must necessarily fail.

6. It was submitted that the decision of the Supreme Court has been followed by the Andhra Pradesh High Court in the case of *MADINENI KONDAIAH AND ORS. v. YASEEN FATIMA AND ORS.*, 1986 ACJ 1. We do not see how that has any relevance to the facts of the case before us. In that case despite the failure on the part of the transferor and transferee of the vehicle within the time specified by Section 31 of the Act, the Insurance Company was held liable for an accident that took place in between. But that Ruling in our view has no application to the facts of this case, because in this case, there was no insurance coverage at all.

7. In that circumstance, the owner has been made liable and owner, is, as we have explained, is the registered owner and no other.

Appeals are, therefore, dismissed.