

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.1270 of 2007

1. S.Kamala
2. Minor Munusamy @ Ambadkar
rep. by his next friend/mother
Kamala Appellants/Petitioners

Versus

1. T.K.Gunasekaran
2. The United India Insurance Co. Ltd.,
76, Trichy Main Road,
Salem - 1. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 31.01.2006 made in M.C.O.P.No.1450 of 1999 on the file of the Motor Accident Claims Tribunal (I Additional District Court), Salem.

For Appellants : Mr.N.Manokaran

For Respondents: M/s.R.Sree Vidhya for R2

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 31.01.2006 made in M.C.O.P.No.1450 of 1999 on the file of the Motor Accident Claims Tribunal (I Additional District Court), Salem.

2. The brief facts of the claim application in MCOP.No.1450 of 1999 is as follows:-

The claimants in the said MCOP are the deceased Sengodan's wife and son respectively, who filed an application claiming compensation of Rs.5,00,000/-. On 27.01.1998 at 4.30 p.m, when the deceased Sengodan along with one Ponnai was travelling in a bus bearing Registration No. TN-27-C-2304 and at his request the driver stopped the bus at the Salem Railway Station, when the Sengodan was getting down the bus, the driver without noticing the same, suddenly started the bus, due to which, the said Sengodan had fell down from the bus and

sustained severe injuries all over the body and inspite of the treatment given to him at the Salem Government Hospital, he died. It is seen from the records, one by name Palaniammal and her daughter have filed a claim petition in MCOP.NO.281 of 1998 for compensation by stating that they are the wife and daughter of the deceased Sengodan. The Tribunal has taklen up both claim petitions and passed common award.

3.The Tribunal, after analyzing the evidence and documents placed before it, has given a finding that the claimant in MCOP.No.281 of 1998 filed by Palaniammal merits/consideration, since, she had obtained Decree of declaration in O.S.No.54 of 1996 that she is the legal heir of the deceased Sengodan. Thus, considering Ex.P5, the Judgment and Decree, the Tribunal awarded the compensation in favour of Palaniammal and her daughter. The other claim application filed by one Kamala was also analyzed by way of documents by the Tribunal and given finding that the said Kamala, who claimed herself as the second wife to the deceased Sengodan has not filed any reliable documents to prove her claim as legal wife of the deceased Sengodan. Hence, the Tribunal has dismissed her application. Aggrieved against the same, Kamala and her minor son have preferred this appeal.

4. In the grounds of appeal, the appellants have stated that the Tribunal has not considered the documents Exs.P12, P14 and P15, Ex.P12 is the letter addressed by the deceased Sengodan to Kamala's father and Exs.P14 and 15 are the representations sent to the District Collector to solve the family dispute. The further ground raised by the appellants is that the paramount consideration of the matter is only to protect the interest of the claimants by way of compensation, whereas, the Tribunal has not considered the same. The other ground raised by the appellants with regard to the quantum and the age of the deceased taken by the Tribunal. Hence, the appellants sought for setting aside the Judgment and Decree passed in MCOP No.1450 of 1999.

5. The argument of the appellants before the forum is that P.W.4, who is the daughter of the deceased Sengodan was examined before the Tribunal, her evidence was to the effect that her father had married Kamala, but no documents were filed before the Tribunal. Though the claimants have filed Exs.P2, P14 and P15, they which are all the correspondence, mentioned the name of Kamala, but there are no valid documents to prove the relationship between deceased Sengodan and Kamala. On verifying the documents filed by the claimants in MCOP.No.281 of 1998, it is seen that they proved that they are the legal heirs of the deceased Sengodan, hence the Tribunal has dismissed the claim application in MCOP.No.1450 of 1999 filed by the S.Kamala and her daughter/claimants herein holding that they are not entitled

for any compensation as they failed to prove their relationship with the deceased Sengodan. It is also argued by the appellants that the said Kamala has taken steps for getting legal heir certificate from the authorities concerned, but no documents have been produced by the appellants and in the absence of any reliable documents and evidence, this Court is of the view that the claimants herein are not entitle for any compensation for the death of deceased Sengodan.

6. As the findings given by the Tribunal were based on the evidence and documents, the order of the Tribunal is just and proper and does not warrant any interference.

7. In the result, the order of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

lpp

To

1. The Motor Accident Claims Tribunal
(I Additional District Court), Salem.
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.R.Sreevidhya, Advocate SR.No.67501

+1cc to Mr.N.Manokaran, Advocate SR.No.66853

GP(CO)
GMY(04/06/2019)

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