

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.09.2018

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1316 of 2007  
and C.M.P.No.1 of 2007

Chinnasamy

...Appellant/Petitioner

Vs

Tamil Nadu State Transport Corporation,  
rep. By its,  
Managing Director,  
Villupuram.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.07.2006 made in M.A.C.T.O.P.No.27 of 1999 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Villupuram.

For Appellant : Mr.K.Velangkanni  
for M/s.T.Dhanya Kumar

For Respondent : Mr.V.Ramesh

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant against the judgment and decree dated 11.07.2006 passed in M.A.C.T.O.P.No.27 of 1999 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Villupuram.

2.The brief facts of the claim petition is as follows;

(i) On 06.08.1995, when the deceased Kumar was proceeding on the left side of the road, the bus bearing Registration No.TN-32-N-0337 came in a rash and negligent manner and hit against the deceased - Kumar, who sustained multiple injuries all over the body. Treatment was given to him at Government Hospital, Kallakurichi, and then referred to Government Hospital, Salem, where he took treatment for three days and he died on 09.08.1995. It is also averred in the petition that the deceased had lost his father at the age of six years and after

the death of his father, his mother married one Chinnasamy, who is the claimant/appellant herein. The claimant/appellant claimed a compensation of Rs.2,00,000/-.

3. The second respondent in his counter statement denied the right of the petitioner, who claimed the compensation for the deceased on the ground of the relationship and also denied the negligence on the part of the respondent vehicle and disowned the responsibility of the driver.

4. The Tribunal after analysing the evidence and documents placed on both sides, has given finding that the claimant/appellant has not proved the dependency or legal heirship of the deceased and held that the claimant/appellant was not entitled for any compensation for the death of Kumar and further held that the court need not decide the quantum of compensation and the person responsible to pay the compensation.

5. Aggrieved against the same, the claimant has preferred this appeal. Though the appellant counsel is present before this Court, he has not made any oral argument or produced any documents before this court to show his bonafide for the said claim. On the other hand, the respondent side counsel submits that the petitioner has produced neither legal heirship certificate nor the dependancy certificate of the deceased while filing the claim petition, seeking compensation. The respondent counsel also brought to the notice of this court that no evidence was placed before the Tribunal with regard to the right of the petitioner in claiming compensation and the relationship of the petitioner with the deceased. It is argued by the respondent counsel that the claimant has not filed any document before the Tribunal to prove his authorization to claim compensation such as any legal heirship certificate or adoption certificate or ration card.

6. In the claim Petition, the petitioner has stated that he has taken care of the deceased and further stated in the petition that the petitioner was more dependant on the income of the deceased at his old age. First of all, the Petitioner has not put forth any evidence before the Tribunal to prove that he is entitled to claim compensation by placing necessary document regarding his dependency or legal heirship. In support of the fact that the Petitioner married Mallika, who is the mother of the deceased Kumar, no marriage certificate was also filed before the Tribunal. It is also relevant to note that P.W.2 one Angamuthu, who deposed before the Tribunal has stated that he has filed M.C.O.P.No.38 of 2000, claiming himself as legal heir of the deceased Kumar and that he has no objection to give compensation to the petitioner, however, the said Angamuthu has whispered nothing about his right over the claim of compensation

made in MCOP.No.38 of 2000 and why he suggested for the Petitioner to get the same.

7. In view of the facts placed before the Tribunal and also the discussion made by the Tribunal that the petitioner has not filed any single document to prove his dependency or legal heirship for compensation for the death of the deceased - Kumar and also taking into account that even today, the appellant has not furnished any relevant document to prove the same before this Appellate Forum for claiming such compensation, this court is not inclined to entertain the appeal. The appeal is devoid of merits. Accordingly, the Civil Miscellaneous Appeal is dismissed. The order of the Tribunal dated 11.07.2006 made in M.A.C.T.O.P.No.27 of 1999 is confirmed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bri

To

1. The Principal District Judge,  
Motor Accidents Claims Tribunal,  
Villupuram.
2. The Section Officer, ,  
V.R.Section, High Court, Madras

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C.M.A.No.1316 of 2007

RSI (CO)  
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