

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2758 of 2008

Laurence Mary Gunabakkiyam

...Appellant/Petitioner

Vs.

1.Ragunathan

2.V.Gopalakrishnan

3.The United India Insurance Company Ltd.,
Branch Office,
1170, Muthaiya Complex,
Mettur Road, Erode.

(1st Respondent given up)

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 19.01.2006 passed in M.C.O.P.No.1407 of 2002, on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Erode.

For Appellant : Mr.N.Manoharan

JUDGMENT

This appeal is preferred by the claimant against the dismissal of the claim petition in M.C.O.P.No.1407 of 2002, by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Erode, on 19.01.2006.

2.The case in brief, is as follows:

On the fateful day, ie. 15.04.2002 at 03.00 p.m., one Sarkunaroopan was travelling as a pillion rider in the scooter bearing Registration No.TN-33-5314 which was driven by one Ragunathan / 1st respondent herein, on the Erode - Kangeyam Main Road. When the two wheeler was proceeding near Kodumudi Junction, due to the rash and negligent driving of its driver, it hit one Krishnan. Due to the said impact, the pillion rider - Sarkunaroopan fell down from the scooter and sustained severe head injury and grievous injuries all over the body. Immediately, he was taken to the Lotus Apollo Hospital, Erode, and he died in the hospital, later. The mother of the deceased viz, Laurence Mary Gunabakkiyam filed a claim petition before

the claims Tribunal, claiming a sum of Rs.7,00,000/- as total compensation. The Tribunal has dismissed the claim petition on the ground that the claimant is not entitled for any compensation.

3.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve papers on the others side. However, due to efflux of time, this appeal is taken up for final disposal on merits.

4.The learned counsel for the appellant/claimant has submitted that the findings given in the judgment by the Tribunal for rejecting the claim is unsustainable in law, because the claimant, being the mother of the deceased, is residing in the refugees camp and she is facing hard time in her life. He further submitted that the Tribunal has not appreciated Exs.A11 to A13/medical records. He also submitted that the Tribunal ought to have entertained the petition and awarded just compensation as claimed by the claimant.

5.Heard the learned counsel for the appellant and perused the materials and evidence available on record.

6.An analysis of the award of the Tribunal would establish the following facts:

- 1.The claimant was examined as P.W.1.
- 2.One Govindaraj was examined as P.W.2 who was an officer in a hospital where the deceased had taken treatment.
- 3.Based upon Ex.P1-F.I.R., Ex.P7-Criminal Court judgment coupled with the evidence of P.W.1, the Tribunal has rendered a finding that the claimant's case was not proved.
- 4.The Tribunal has taken note of Ex.P9/letter given by one Lawrence addressing Nedundeevu, Assistant Government Officer.
- 5.The Tribunal has also taken note of Ex.P10/refugees identity card and has come to the conclusion that;
 - (i)the name of the deceased was not found in any of the records of the refugees record;
 - (ii)the contention of the respondents herein that the deceased as well as the mother had not resided in refugee's camp, is correct;
 - (iii)there is no iota of evidence with regard to the legal heirship of Laurence Mary Gunabakkiyam.

7.Thus, the claimant has not proved that she is the legal heir of Sarkunaroopan by way of oral or documentary evidence and hence the Tribunal has dismissed the claim petition. This Court cannot re-appreciate the evidence once again and arrive at a different conclusion. Further, no new document is forthcoming from the appellant's side to establish the fact that she is the legal heir of the deceased Sarkunaroopan. Hence, the claimant is not entitled for any relief in this appeal.

8.In the result, the Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Erode.

Copy to : The Section Officer, V.R.Section,
High Court, Madras.

+1cc to Mr.N.Manokaran, Advocate Sr.No.58817

AKM/10.02.2020 /3P-4C/

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