



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.12.2020

PRONOUNCED ON : 07.01.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1242 of 2009

(Through Video Conferencing)

M.Nanjappan ... Appellant/Petitioner

Vs.

1.M.Dinesh
2.Jayathilal M.Patel
3.The Branch Manager,
United India Insurance Co., Ltd.,
Morbi Divisional Office,
Morbi Taluk Rajbot,
Gujarat.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree passed by the Motor Accidents Claims Tribunal, (1st Additional Sub Court) Coimbatore, in M.C.O.P.No.1166 of 1997 dated 15.12.2005.

For Appellants : Mr.L.Mouli

For R1 & R2 : No Appearance

For R3 : Mr.C.Paranthaman

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by one of the unsuccessful claimants before the Tribunal against the impugned Judgment and Decree dated 15.12.2005 passed by the Motor Accidents Claims Tribunal (I Additional Sub Court) Coimbatore in M.C.O.P.No.1166 of 1997.

3. By the impugned order, the Tribunal has dismissed the said claim petition on the ground that both the original claimants and the appellant have failed to produce any documents to substantiate that they were legal representative of the deceased claimants.



3. The case of the deceased claimants(original claimants) before the Tribunal was that on 16.05.1997, their 2nd son, daughter-in-law, granddaughters and grandson met with an accident in Vellore District on the national highway road between Chennai and Coimbatore. Particulars of the deceased persons are as under:-

Sl.No	Name	Age (years)
1	Vellingiri	43
2	Sakunthala	38
3	Brinda	18
4	Vidya	16
5	Sangeetha	15
6	Karthik	12

4. In the claim petition that was filed before the Tribunal, the name of the insurer of the accident vehicle was given as "United India Insurance Company Limited, Morbi Taluk, Rajkot, Gujarat State". The original claimants since deceased had prayed for a compensation of Rs.15,00,000/-. The case of the original claimants was that the above mentioned deceased persons were travelling on the fateful day in a Ambassador Car bearing registration No.TN-01-A-4664. The Car was driven by their son deceased Vellingiri and when the Car was proceeding towards east-west road, southern and extreme side of the road, a lorry bearing registration No.GJ-3U-4420 insured with the 3rd respondent Insurance Company was driven by its driver in a rash and negligent manner and dashed against the said car, resulting in an instantaneous death of the above occupants of the said car.

5. Two of the claimants, namely, Marappa Gounder and Periakkal died during the pendency of the claim petition before the Tribunal in M.C.O.P.No.1166 of 1997 on 08.12.2001 and 03.11.1997 respectively. They were the original claimants. After the death of the original claimants, the appellant herein continued the aforesaid proceedings as the legal representative of the deceased claimants.

6. The Tribunal rejected the claim petition filed by the deceased claimants on the ground that the appellant who continued with the said proceedings had not produced any evidences to substantiate that he is the legal heir/representative of the deceased claimants, namely, Marappa Gounder and Periakkal who are his father and mother respectively. During the pendency of this appeal, the appellant filed C.M.P.No.21399 of 2019 to permit him to produce the legal heirship certificate dated 19.09.1997 and a xerox copy of a registered will dated 30.06.1998 as additional documents. Same was allowed by an order dated 11.11.2020 for the purpose of this appeal.



7. I have perused the records particularly the claim petition. In the claim petition as against the details of the Insurance Company at Sl.No.16, the name of the insurer has been specified as that of the 3rd respondent. I have also perused the copy of Motor Vehicle Inspector's Report which was marked as Ex.P2 before the Tribunal.

8. The Tribunal after discussing at length has dismissed the claim petition only on the ground that the appellant has not established by way of any evidence to prove that he was the sole legal heir of the deceased original claimants and that deceased original claimants were the legal heirs of the persons who died in the accident. The Tribunal has however concluded that the driver of the insured lorry was responsible for the death of the occupants of the car on 16.05.1997.

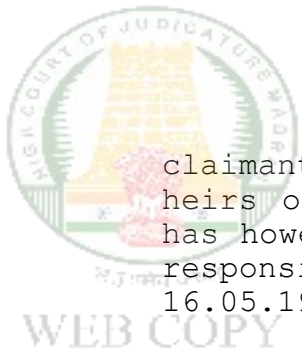
9. The documents which have been marked before this Court as additional documents seem to indicate that the appellant's parents, namely, Marappa Gounder and Periakkal the original claimants died on 08.12.2001 and 03.11.1997 respectively. The legal heir certificate

obtained by the deceased original claimants also indicates that they were the legal heirs/representatives of the deceased persons who died in the accident.

10. After the death of the 2nd claimant, the 1st claimant appears to have executed a registered Will dated 30.06.1998 bequeathing all the movable and immovable assets in favour of the appellant. The said Will also indicates that apart from the appellant, there are other legal heirs/representatives of the deceased original claimants, namely, Kaliasammal, Palaniasammal, Chinnammal and Bharvathi. They are/were the daughters of the deceased original claimants. The said Will also indicates that the Palaniasammal died much before the accident.

11. In my view, it is for the appellant to establish that he is the sole legal heir of the deceased original claimants before the Tribunal. Otherwise, the other legal heirs of the deceased claimants may be entitled to compensation if indeed the claim was otherwise in order. Therefore, I am of the view that this case deserves to be remitted back to the Tribunal for a proper adjudication. The appellant is directed to produce the same before the Tribunal.

12. The Tribunal after discussing at length has dismissed the claim petition only on the ground that the appellant has not established by way of any evidence to prove that he was the sole legal heir of the deceased original



claimants and that deceased original claimants were the legal heirs of the persons who died in the accident. The Tribunal has however concluded that the driver of the insured lorry was responsible for the death of the occupants of the car on 16.05.1997.

13. Since the claim petition is of the year 1997, the Motor Accidents Claims Tribunal (I Additional Sub Court) Coimbatore is directed to dispose the M.C.O.P.No.1166 of 1997 within a period of 12 months from the date of receipt of a copy of this Judgment.

14. Accordingly, this Civil Miscellaneous Appeal is disposed by way of remand. No cost.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

kkd

To

The Motor Accidents Claims Tribunal,
(I Additional Sub Court) Coimbatore

+1cc to Mr.L.Mouli, Advocate SR.No.1291

+1cc to Mr.C.Paranthaman, Advocate SR.No.833

C.M.A.No.1242 of 2009

AP(CO)
GMY(26/08/2021)