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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2747 of 2015

A.R. Sakthivel

.... Appellant /Petitioner

Versus

Managing Director

Tamil Nadu State Transport Corporation,

Salamedu, Vazhutha Reddy,

Villupuram- 605 602

.... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31.01.2014 made in MCOP No.501 of 2012 on the file of the Motor Accidents Claims Tribunal, III Additional District and Sessions Court, Kallakurichi (M.C.O.P. No.36 of 2011 on the file of the Subordinate Court, Kallakurichi).

For Appellant : Mr.D.Balachandran

For Respondent : Mr.C.S.K.Sathish

JUDGMENT

(Heard video conference)

This appeal has been filed by the claimant challenging the impugned award dated 31.01.2014 passed by the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Kallakurichi in MCOP No.36 of 2011.

2. The appellant / claimant has filed MCOP No.36 of 2011 before the Sub-Ordinate Court Kallakurichi seeking for a compensation of Rs.5,00,000/- for the death of his grand mother Veerammal. Thereafter, MCOP No.36 of 2011 was transferred from the file of the Sub-Ordinate court Kallakurichi to the file of 3rd Additional District and Sessions Court, Kallakurichi and



renumbered as MCOP No. 501 of 2012.

3. Heard Mr.D. Balachandran, learned counsel for the appellant / claimant and Mr.C.S.K.Sathish, learned counsel for the respondent / Transport Corporation.

4. This Court has perused the materials and evidence available on record before the Tribunal.

5. The Tribunal has dismissed the claim of the appellant/claimant only on the ground that he is not a Class-I Legal Heir under the Hindu Succession Act, 1956. The appellant/claimant is the grandson of the deceased Veerammal, who died on 31.07.2010 as a result of an accident caused by a bus owned by the respondent Transport Corporation. According to the appellant/claimant, he is the only Legal Heir of the deceased Veerammal. The appellant/claimant has produced the Legal Heirship certificate of his grand mother before the Tribunal, which has been marked as Ex.A5 which confirms that he is the only legal heir of the deceased Veerammal as his mother was pre-deceased his grand mother.

6. Section 15 of the Hindu Succession Act reads as follows :

15. General rules of succession in the case of female Hindus.—

(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

(a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father;

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),—

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-



section (1) in the order specified therein, but upon the heirs of the husband.

7. As seen from Section 15 of the Hindu Succession Act, 1956, it is clear that children of any pre-deceased son or daughter are also Class-I legal heirs. In the case on hand, the only daughter of Veerammal pre-deceased her, which is not in dispute. The Legal Heirship certificate, dated 27.01.2011 issued by the Tahsildar, Sankarapuram has also been marked as Ex.A5 before the Trial Court which confirms that the appellant/claimant is the only legal heir for the deceased Veerammal. However, by total non-application of mind to the settled position of law as per Section 15 of the Hindu Succession Act, the Tribunal has rejected the claim only on the ground that the appellant/claimant as Class-I Legal Heir.

8. Therefore, the impugned order dated 31.01.2014 passed by the Motor Accident Claims Tribunal has to be necessarily set aside by this Court and remanded back to the Tribunal for fresh consideration on merits and in accordance with law, with regard to the assessment of compensation in favour the appellant/claimant.

9. For the foregoing reasons, the impugned order dated 31.01.2014 passed by the Motor Accident Claims Tribunal (III Additional District and Sessions Court), Kallakurichi in MCOP No.501 of 2012 is hereby set aside and the Civil Miscellaneous Appeal is allowed by remanding the matter back to the Tribunal for fresh consideration on merits and in accordance with law and the Tribunal shall pass final award, within a period of six months from the date of receipt of a copy of this order after permitting both the appellant as well as respondents to adduce evidence. No costs.

10. However, it is made clear that the appellant/claimant is a Class-I Legal Heir and entitled to receive compensation for the death of Veerammal, who died as a result of an accident caused by a bus owned by the respondent Transport Corporation.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

gd/vsi2



To

1. The III Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Kallakurichi.

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+1cc to Mr.D.Balachandran, Advocate SR.No.41906
+1cc to Mr.C.S.K.Sathish, Advocate SR.No.42405

C.M.A.No.2747 of 2015

AD (CO)
GN (21/12/2021)