



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.M.A.NO.170 OF 2014

K.R.Rajendran

... Appellant/Claimant

Vs.

1. J.Martin

2. The Manager,
United India Insurance Company Ltd.,
No.470, G.N.T.Road,
Red Hills

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 09.07.2012, passed in M.C.O.P.No.554 of 2006, on the file of the Subordinate Judge at Thiruvallur, and set aside the same and consequently allow this appeal.

For Appellant : Mr.K.Saravanan for
Mr.R.Veeramani

For Respondents : M/s.G.Udaya Sankar for R2
Notice not ready - R1.

JUDGMENT

Civil Miscellaneous Appeal has been filed by the claimant challenging the judgment and decree dated 09.07.2012, made in M.C.O.P.No.554 of 2006, on the file of Subordinate Judge at Thiruvallur.

2. The case of the claimant is that on 27.05.2005 at about 7.00 p.m. near Venkataraman Reddi pump-set, Pagalmedu village when the deceased was a pedestrian, the first respondent's driver drove the lorry bearing Registration No.TN-10-C-8485 in a rash and negligent manner and dashed against the deceased



Tirupurammal and she died instantaneously. Hence, the claim petition filed by the legal heir of the deceased.

3. Learned counsel for the appellant would submit that the Trial court has failed to consider that the husband of the victim had predeceased her and she was issueless and the victim was residing with the appellant. In the absence of appellant being direct legal heir of the deceased, it is possible to obtain 'Legal Heir Certificate' from revenue department. Nevertheless, the appellant can be termed as legal representative or dependant of the deceased. The trial Court has committed error and failed to note that revenue authorities have power to issue legal heir certificate only to direct legal or blood relative not for Class II legal heir. The Trial Court ought to have considered the fact that for getting compensation under Motor Accident Claim Tribunal Act, the claimant need not be the legal heir of the deceased, but suffice, he is the legal representative or dependant of the victim. Hence, he prayed for allowing the present Civil Miscellaneous Appeal.

4. Before the Tribunal, the appellant examined himself as P.W.1 and one eye witness Mr.Selvaraj was examined as P.W.2 and marked three documents as Ex.P1 to Ex.P3. On behalf of the respondents, no oral and documentary evidence was let in.

5. The Tribunal considering the pleadings, oral and documentary evidence, held that the claimant has failed to prove that he is the dependant/legal heir of the deceased Tirupurammal and therefore, dismissed the claim petition. Aggrieved by the same, the claimant has filed the present Civil Miscellaneous Petition.

6. Heard the learned counsel for the appellant and perused all the materials available on record.

7. The Tribunal dismissed the claim petition on the ground that the claimant has failed to prove that he is the brother of the husband of the deceased Tirupurammal and there is no mention in the petition whether Tirupurammal was not survived by any Class I or Class II legal heirs. The appellant herein has not stated that he is the only legal heir and alive for the deceased Tirupurammal. In order to claim compensation for the death of a person, the claimant has to prove that he was the dependent of the deceased who was the bread winner of the family and it should be established as such. The appellant had not stated what is his relationship and that how he is dependent of the deceased Tirupurammal. A perusal of the evidence tendered by the appellant shows that he introduced himself as a son of Tirupurammal, but, in the proof affidavit, he refers himself to



be a son of the deceased Tirupurammal and in the claim petition, he states that the deceased is his brother's wife. In the proof affidavit, he changes the relationship of the deceased as a mother and during the course of examination in cross, he stated that the deceased is the Chithi or Chinnamma to the appellant. If he is the only legal heir, he should have obtained the legal heirship certificate, but he had not done so. The claimant in the claim petition, has to prove a prima facie case that he is entitled to receive compensation and he has to prove his status, his relationship with the deceased and that he was dependant on the deceased. When nothing is proved and the claimant has failed to instill confidence in the mind of the Court that he is the dependant/legal heir of the deceased Tirupurammal and entitled for getting the compensation amount, the learned Judge has dismissed the claim petition stating that the claimant is not entitled to maintain the claim application where I do not find any infirmity. The claimant would claim that he received the body which is not suffice to grant compensation to him. Accordingly, claim petition is dismissed.

8. Keeping in view the above facts and the finding of the Tribunal, this Court finds no infirmity in the Judgment and decree of the Tribunal and it does not warrant any interference except to confirm it.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

msv

To

The Subordinate Judge,
Thiruvallur.

+1cc to Mr.G.Udaya Sankar, Advocate, S.R.No.21193

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AJB(CO)
RLP(14/06/2022)