



C.M.A. (MD)No.850 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.850 of 2022

Mahalingam (died)

1.S.Tamilarasi

2.J.Sankareswari

3.M.Vijayalakshmi

4.M.Mahesh

...Appellants/Petitioners

Vs.

1.M.Murugan

2.National Insurance Company,
Branch Office-I,
No.92, Devarpuram Road,
Tuticorin-3.

...Respondents/Respondents

PRAYER: These Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 28.02.2020 made in M.C.O.P.No.138 of 2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Tuticorin.

For Appellants : Mr. S.Siva Thilakar

For R1 : Mr. A.Arumugam

for M/s.Ajmal Associates



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed by the legal heirs of one Mahalingam / original claimant, challenging the judgment and decree made in M.C.O.P.No.138 of 2015 dated 28.02.2020 on the file of the Motor Accident Claims Tribunal/sub Court, Tuticorin.

2.The original claim petition was filed by the said Mahalingam, claiming compensation of Rs.4,00,000/- for the alleged injuries sustained in an accident that took place on 03.05.2016. After filing the claim petition, he died and thereafter, his legal heirs have been brought on record and they pursued the claim petition.

3. The case of the original claimant is that on 03.05.2016 at 08.00 p.m. while he was riding his by-cycle, a bike bearing Registration No. TN 69 AR 2668 driven in a rash and negligent manner, hit against the petitioner's cycle, which resulted in injuries and he admitted in the Government Hospital, Tiruchendur. A criminal case was also registered in Crime No.150 of 2015 for the offences punishable under Sections 279 and 337 IPC. Therefore, the claim petition was filed by the original claimant, claiming a sum of Rs.4,00,000/- as compensation.



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4. The learned counsel for the second respondent before the Tribunal has submitted that the original claimant has not filed any document to show that he has spent some amount towards the treatment for the alleged injuries said to have been sustained by him.

5. The Tribunal considering the fact that no documents whatsoever have been filed to substantiate that the said Mahalingam has suffered injuries and spent some amount towards the treatment, dismissed the claim petition. Challenging the same, the present appeal came to be filed.

6. I have heard the learned counsel appearing on either side and perused the entire materials placed on record.

7. Admittedly, the original claimant has not filed any materials to substantiate that he has spent money towards treatment for the injuries said to have been sustained by him before the Tribunal. Even before this Court, no such documents whatsoever have been filed by the appellants to substantiate that they have paid some money towards the injuries sustained by their father. The very claim petition itself was filed claiming compensation for the injuries said to have been sustained by the father of the appellants. But the same has not been proved.



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Now, the original claimant also died. The cause of action dies with the person, who claims compensation. At the most, the legal heirs are entitled to claim the medical expenses. However, to substantiate the same, no documents whatsoever have been placed either before the Tribunal or before this Court. It is also not established that the death of the appellants' father is due to the alleged injuries said to have been sustained. There is no proximity between the death and the accident. In the absence of any evidence to show that the injured person has spent some amount towards medical expenses, the Tribunal has rightly rejected the claim made by the original claimant.

8.For the reasons stated above, I find no merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

06.03.2023

Index : Yes/No

Internet : Yes/No

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To

- 1.The Motor Accident Claims Tribunal/Sub Court,
Tuticorin.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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**Judgment made in
C.M.A.(MD)No.850 of 2022**

06.03.2023