
(2013) 01 MAD CK 0242
In the Madras High Court
Case No : C.M.A. No. 246 of 2013

Ellammal

APPELLANT

Vs

L. David

RESPONDENT

Date of Decision : 02-01-2013

Acts Referred:

Citation : (2014) 1 TNMAC 416

Hon'ble Judges : S. Manikumar, J.

Bench : Single Bench

Advocate : M. Sriram, Advocate, for the Appellants

Final Decision : Dismissed

Judgement

S. Manikumar, J.—Being aggrieved by the dismissal of the Claim Petition in M.C.O.P. No. 842 of 2006, dated 27.8.2009, on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Krishnagiri, the Claimants have preferred the present Appeal.

2. In an accident, which occurred on 4.7.2006, one Muniappan, died. The First Appellant, claiming to be the widow and Appellants 2 to 4, as daughters and son of the deceased respectively, have claimed Compensation. The 1st Appellant, who has been examined as PW 1, has deposed that she is the Third Wife of the deceased. She has also deposed that the 1st Wife of the deceased, viz., Muniappan and her children were alive. No material documents have been filed by the Appellants/Claimants, excepting Ex. P-4-Family Card, to prove that there was a valid marriage between the 1st Appellant and the deceased. The entire averments made in the Claim Petition do not disclose about the marriage of the 1st Appellant with the deceased. As stated supra, PW 1, 1st Appellant, herself has admitted that the 1st Wife of the deceased and her children were alive, at the time of trial. No details have been furnished, as regards the 2nd Wife. While instituting the claim, the Appellants have stated that being the Wife, daughters and son of the deceased respectively and as per the Hindu Succession Act, they

are entitled to claim Compensation. The Appellants have not even chosen to implead the 1st Wife and children, as party Respondents, though they were stated to be alive, at the time of trial.

3. As rightly observed by the Claims Tribunal, Ex. P-4-Family Card alone, cannot be considered as proof, for valid marriage, between 1st Appellant and the deceased. Legal Heir Certificate has not been enclosed. As per Section 166 of the Motor Vehicles Act, an Application for Compensation arising out of the accident, can be made, where the death has resulted from the accident, by all or any of the Legal Representatives of the deceased, as the case may; or by any agent duly authorised by the person injured or any of the Legal Representatives of the deceased, as the case may be. Proviso to the said Section states that where all the Legal Representatives of the deceased have not joined in any such application for Compensation, the Application shall be made on behalf of or for the benefit of all the Legal Representatives of the deceased and the Legal Representatives who have not so joined, shall be impleaded as Respondents to the Application.

4. As stated supra, the Appellants have suppressed the fact of the 1st marriage and chosen to file a Claim Petition, as if, they are the Legal Heirs, as per the Hindu Succession Act. Mere inclusion of the name of the deceased in the Ration Card, would not create marital status. Ration Card can be considered as a document only for the purpose that the Card holder is entitled to get the essential commodities, under the Public Distribution System, of such commodities. It can be a supportive evidence, if there are other documents, like Legal Heir Certificate issued by the Revenue Authority to prove relationship. Admittedly, no such Certificate has been filed.

5. As suppression is per se apparent on the face of the record, with an intention to grab the Compensation, due and payable to the Legal Representatives of the deceased and when the Claim Petition has been filed, without impleading the other Legal Representatives, the Claims Tribunal has rightly observed that the Appellants have not substantiated the claim, as Legal Representatives, by producing valid evidence and thus, dismissed the Claim Petition. The decision cannot be said to have been made, without any basis.

6. Record of proceedings shows that while ordering notice of motion on 7.6.2011, this Court has directed the Appellants to produce materials, to prove their status, for the purpose of making a claim, under Section 166 of the Motor Vehicles Act. However, no document has been filed in this regard. In the light of the above, this Court is of the view that there is no manifest error in dismissing the Claim Petition.

7. Hence, the Civil Miscellaneous Appeal is dismissed. No costs.