
(1936) 02 MAD CK 0005
In the Madras High Court

Kancherla Krishnamurthy being minor by his mother and
guardian Lakshmikantam

APPELLANT

Vs

Tadikonda Anjayya

RESPONDENT

Date of Decision : 10-02-1936

Acts Referred:

Married Womens Property Act, 1874 — Section 6

Citation : (1936) 44 LW 149 : (1936) 71 MLJ 39

Hon'ble Judges : Venkatasubba Rao, J

Bench : Division Bench

Judgement

Venkatasubba Rao, J.—The person whose life was insured was Satyanarayana and the suit has been filed against his son on his death. The

question to be decided is, whether the policy amount is liable to be attached for the debt of the father.

2. The defendant contends that u/s 6 of the Married Women's Property Act a trust arose in his favour in respect of the sum and that it is therefore

not available to his father's creditors. Section 6 of the Act, on which reliance is placed, runs thus:

A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or his wife and

children, or any of them, shall enure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to

the interests so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband, or to his creditors or

form part of his estate.

3. In the policy against the column ""to whom payable"", appear the words ""to the person or persons legally entitled thereto"". Under the section, for

a trust to arise, it must appear on the face of the document, that the policy was effected for the benefit of the wife, or the wife and children, or any

of them. The words in the policy do not bear the slightest resemblance to what the section contemplates should in fact appear there. The policy

directs that the amount shall be paid to the person legally entitled to it--a direction quite superfluous as it merely provides that the law should take

its course. Although, where the intention clearly appears that a trust is to be created, the law does not require that the words used should be

identical with those occurring in the statute, it is impossible to hold in the present case that the requirements of the section have been fulfilled.

4. Then it is contended that in the application for the issue of the policy the object was stated to be ""for the maintenance of the family"". In the first

place, the word "family" is much wider than ""the wife and children"" who alone under the section can be the proper objects of the trust. Secondly,

the section enacts that the trust should appear ""expressed on the face"" of the document, that is to say, that the words used should be plain and

unambiguous. For whatever purpose the policy may be governed by the terms of the application that preceded it, I am perfectly clear that for the

purpose of the Married Women's Property Act the only document that can be looked at is the policy.

5. I therefore hold that no trust has been created as alleged by the defendant and that the lower Court's decision is correct. The Civil Revision

Petition fails and is dismissed with costs.