

(2014) 06 KAR CK 0004

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 9386 of 2011 (MV)

Kempamma

APPELLANT

Vs

A.B. Veerabhadraiah

RESPONDENT

Date of Decision : 24-06-2014

Acts Referred:

Citation : (2014) 4 AKR 33

Hon'ble Judges : B. Manohar, J

Bench : Single Bench

Advocate : Patel D. Karegowda, Advocate for the Appellant; H.S. Lingaraj, Advocate for the Respondent

Judgement

B. Manohar, J.—The appellant, being aggrieved by the judgment and award dated 21.7.2011 in MVC No. 930/2003 passed by the Additional Senior Civil Judge & CJM, Tumkur, rejecting the claim petition filed by the appellant has filed this appeal. The appellant filed the claim petition conj tending that she is the wife of one Ramamurthy alias Narasimhamurthy son of Chennalingaiah alias Chandrappa, who died in a road traffic accident occurred on 3.7.1999 at about 12 noon. She contended that the said Ramamurthy was working as cleaner in the bus bearing Regn. No. KA-06-A-9293. Since the driver of the said bus applied sudden brake, the said Ramamurthy was thrown out of the bus and sustained grievous injuries and he was shifted to Ramanagar Rotary Hospital, however he succumbed to the injury. He was getting salary of Rs. 4,000/- p.m. and bata of Rs. 50/- per day and sought for compensation of Rs. 6,00,000/-.

2. The 2nd respondent filed written statement denying the entire averments made in the claim petition and also denied the status that the claimant is the wife of deceased, Ramamurthy alias Narasimhamurthy.

3. On the basis of the said pleadings, the Court below framed necessary issues and held that the claimant has failed to prove that she is the wife of deceased, Ramamurthy alias Narasimhamurthy and rejected the claim petition by its

judgment and award dated 12.9.2007. Being aggrieved by the judgment and award passed by the Court below, the claimant was before this Court in MFA No. 64/2008 contending that sufficient opportunity has not been given to produce necessary evidence to prove that the deceased, Ramamurthy alias Narasimhamurthy was the husband of the claimant. This Court by its judgment dated 16.3.2009 allowed the appeal and set aside the judgment and award passed by the Court below and remanded the matter to reconsider the same with liberty to the claimant to lead additional evidence and also produce necessary documents to prove that she is the wife of deceased, Ramamurthy alias Narasimhamurthy. After remand, the claimant examined herself and produced a marriage invitation card. Except that, no document has been produced to prove the fact that she is the married wife of Ramamurthy alias Narasimhamurthy. The Court below after considering the oral and documentary evidence held that the claimant has failed to prove that she is the wife of deceased, Ramamurthy alias Narasimhamurthy. No photograph of the marriage has been produced nor independent witness has been examined to prove that the claimant is the wife of Ramamurthy alias Narasimhamurthy. Accordingly, the Court below rejected the claim petition by its impugned judgment and award dated 21.7.2011. Being aggrieved by the same, once again the appellant has filed this appeal contending that the judgment and award passed by the Court below rejecting the claim petition is contrary to law. The Court below has not taken into consideration the evidence of the parties and the marriage invitation card produced by the appellant.

4. Sri. Patel D. Karegowda, Advocate appearing for the appellant contended that the judgment and award passed by the Court below is contrary to law. No woman in the society come before the Court to say that the deceased, Ramamurthy alias Narasimhamurthy is her husband unless legally married. Further the marriage invitation card produced by the appellant shows that their marriage took place at Ganesha Choultry at Huliya. This document was overlooked by the Court below and sought for allowing the appeal and to consider the claim of the appellant for grant of compensation.

5. On the other hand, Sri. H.S. Lingaraj, Advocate appearing for respondent No. 2 argued in support of the judgment and award passed by the Court below and contended that no independent evidence or witness has been examined to prove that the claimant is the wife of Ramamurthy alias Narasimhamurthy. Neither the parents of the deceased nor the parents of the claimant were examined to prove the said fact. The claimant though married in the year 1997, neither she knows the names of brothers of the deceased and her father-in-law. She claimed that the name of the father-in-law is Chennalingaiah alias Chandrappa. She does not know the names of brothers of the deceased. However, the inquest report and also charge-sheet show the name of the deceased as the son of Boralingaiah alias Bommalingaiah. In the absence of necessary document, the evidence of the appellant cannot be believed and sought for dismissal of the appeal.

6. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the judgment and award and oral and documentary evidence.

7. The records clearly disclose that the appellant filed a claim petition seeking compensation due to the death of Ramamurthy alias Narasimhamurthy in the road traffic accident occurred on 3.7.1999 who said to be the husband of the claimant. However her status is disputed by the contesting respondent stating that at the time of death, the said Ramamurthy was a bachelor. The appellant in order to prove her case examined herself as PW 1 and examined one other witness, Sri. Hanumanthaiah as PW 2 to prove her case and got marked the documents as Exs. P1 to Ex. P6. An Administrative Officer of the 2nd respondent was examined as RW 1 and got marked the documents as Exs. R1 to R5. No document has been produced to substantiate her contention that she is the wife of the deceased. In view of that, the Court below dismissed the claim petition solely on the ground that no document has been produced to prove that she is the wife of Ramamurthy. On an appeal in M.F.A. No. 64/2008, this Court in order to afford one more opportunity to prove the case of the appellant that she is the wife of the deceased, Ramamurthy, allowed the appeal and remanded the matter to the Court below reserving liberty to produce necessary documents. After remand, except producing the marriage invitation card, no document has been produced. In the earlier proceedings, she had claimed that her marriage took place during mass marriage at Huliya. Even after remand, though opportunity was given by this Court to produce necessary document, she has not examined her parents or her in-laws to prove the fact of marriage between the appellant and Ramamurthy. She has not examined the concerned person of Ganesha Choultry to prove that her marriage had taken place in the said choultry in the year 1997. One of the witnesses examined by the appellant stated that he does not know about the marriage and expressed his ignorance of the marriage and relatives of the brothers and sisters of Ramamurthy. Apart from that in the inquest report, the deceased's father's name was shown as Bommalingaiah alias Boralingaiah. In the FIR also, the deceased's father's name is shown as Bommalingaiah alias Boralingaiah, whereas the appellant claimed that her father-in-law's name is Chennalingaiah alias Chandrappa. To prove that fact, she has not examined any independent witness. The Court below after considering the relevant material in detail has come to the conclusion that the claimant has failed to establish that she is the wife of Ramamurthy. The appellant has not made out a case to interfere with the judgment and award. Hence, I find no infirmity or irregularity in the judgment and award passed by the MACT.

Accordingly, I pass the following:

ORDER

Appeal is dismissed.