
(1995) 04 MAD CK 0070
In the Madras High Court
Case No : A.A.O. No. 685 of 1986

Manager, P.N.P. Transports and Another	APPELLANT
Vs	
Mother Superior General, Servite Generalate (Convent) and Others	RESPONDENT

Date of Decision : 05-04-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 110A

Citation : (1996) 1 ACC 396 : (1995) 2 LW 181

Hon'ble Judges : S.S. Subramani, J; M. Srinivasan, J

Bench : Division Bench

Advocate : K.S. Narasimhan, for the Appellant; M. Joseph Thatheus Jerome, for the Respondent

Final Decision : Dismissed

Judgement

M. Srinivasan, J.—Respondent Nos. 3 and 5 hi the original claim petition before the Tribunal are the appellants herein. The accident occurred on 4.11.1981. The victim who died immediately was Rev. Sister Kathleena Mary, a member of the Servite Generalate (Convent), in which the claimant No. 1 is the Mother Superior General. The deceased was working as a Lab Technician and drawing a salary of Rs. 300/- per mensem. The salary was being given to the claimant No. 1 for the maintenance of the Convent. The deceased was aged about 28. Claiming that she would have earned at least for another 30 years, the claimant No. 1 has filed the claim petition for a total compensation of Rs. 1,00,000/-. Claimant Nos. 2 and 3 are the parents of the deceased. In the original petition, it is stated that if the court comes to the conclusion that the parents alone are entitled to compensation, it may be ordered to be paid to the parents who are claimant Nos. 2 and 3 and in any event, claimant Nos. 2 and 3 are entitled for a sum of Rs. 5,000/- for the mental agony and suffering on account of the death of their daughter.

2. The petition was opposed on several grounds. At present we are concerned

only with one of the grounds, which has been urged in this appeal. It is contended that none of the claimants is a legal representative of the deceased as she had renounced worldly life and became a nun. It is contended that neither the Mother Superior General nor the natural parents of the deceased are entitled to any compensation.

3. The Tribunal found as a fact that the deceased had not become a full-fledged nun and her parents being her legal representatives are entitled to compensation. The Tribunal worked out the amount of Rs. 100/- per mensem and applied a multiplier of 30. Thus, the Tribunal awarded Rs. 36,000/- with proportionate costs to claimant Nos. 2 and 3. Aggrieved thereby, respondent Nos. 3 and 5 have preferred this appeal.

4. It is argued by the learned Counsel for the appellants that the deceased had become a nun and none of the claimants could claim as her legal representative. It is further contended that in any event, the father of the deceased, who was examined as PW 2, has admitted that she never sent any money to the parents and, therefore, the award in favour of the parents is unsustainable.

5. Learned counsel for the claimants raises a preliminary objection that the appeal has not been valued properly and proper court-fee has not been paid. He points out that in Clause (3) of the award it is provided that the entire amount of compensation shall be deposited within two months from the date of the award, failing which the amount shall carry interest at the rate of 18 per cent per annum. In Clause (1) of the award, the rate of interest is fixed at the rate of 12 per cent from the date of the original petition and Clause (3) is a default clause by which an enhanced rate of interest is fixed, in case there is a default in deposit of the amount within two months from the date of the award. The appeal was filed on 9.6.1986, i.e., long after the expiry of the period granted for the purpose of the deposit. After the filing of the appeal, by virtue of an interim order passed by this Court, the amount was deposited by the appellants on 21.8.1986, thus according to the learned Counsel for the respondents, the default clause had come into operation and the appellants ought to have calculated the interest due on the compensation amount at 18 per cent per annum and arrived at the value of the appeal. It has not been done so and hence, the appeal has not been properly valued.

6. Even now we can say that the objection is well taken and the appeal has not been valued properly. Learned counsel for the appellants contends that the default clause can operate only if there is no appeal and the appellants having preferred the appeal are not bound by the default clause. We are unable to accept this contention. For the purpose of arriving at the value of the appeal, the interest due as on the date of the award has to be worked out by the appellants. By the time the appeal was filed in June, 1986, the rate of interest payable under the award was 18 per cent per annum. Hence, the value of the appeal having been worked out at the rate of 12 per cent per annum is erroneous. The appellants ought to have calculated the correct value and paid a proper court-fee

due thereon. If the value of the appeal is calculated in that manner, it would come to Rs. 59,760/-. The court-fee payable thereon is Rs. 171.30. The appellants shall pay the deficit court-fee of Rs. 28.80 within four weeks from this date. If the amount is not paid, it shall be collected from them by the concerned authorities by the appropriate process of law.

7. On the merits, the contention of learned Counsel for the claimants is that as a fact, the deceased had not become a full-fledged nun. He places reliance on the deposition of the claimant No. 1, Mother Superior General, as well as the deposition of the claimant No. 2, the father of the deceased. The claimant No. 1 has categorically stated that on 19.6.1971 a ceremony was performed in which appropriate dress was given to the deceased for becoming a nun. She has stated that the relationship of parents and daughter is not cut off thereby. She was accepted as a novice before she was made into a full-fledged nun. She has also deposed that in the first 2 1/2 years, she will be subject to all the tests and thereafter, she will be administered vows and will be taken as a full-fledged nun. She has also stated that it may be done even eight years thereafter.

8. PW 2, the father of the deceased, had stated that on becoming a nun, dress will be given in the first instance and after ten years, a ring will be given and within ten years she can leave the Convent and come back to the parents. He has stated that the deceased was not given the ring till her death. Thus, the evidence on record clearly shows that the deceased had not become a full-fledged nun. Hence, there is no merit in the contention of the appellants that there was a civil death of the deceased when she became a nun and the claimants cannot claim to be her legal representatives.

9. Our attention is drawn to a judgment of the Kerala High Court in *Oriental Insurance Co. Ltd. Vs. Mother Superior, S.H. Convent and Others*, . It has been held therein that once a person joins the Holy Order, the Convent became her family and the Mother Superior becomes the head of the family as well as her legal representative. It is held that because of her civil death by becoming a member of the Holy Order, the natural heirs will not be her legal heirs. That ruling will not apply to this case as we have found on facts that the deceased had not become a full-fledged nun. It cannot be said that she had become a member of the Convent family.

10. Reference is also made to the judgment of a Division Bench of this Court in *Perumal v. G. Ellusamy Reddiar* 1974 ACJ 182 (Mad). The Bench considered the question as to who will be the legal representatives within the meaning of Section 110-A of the Motor Vehicles Act. That judgment does not in any manner apply to the present case.

11. Learned counsel for the respondents invited our attention to the ruling in *In Re: Rt. Rev. Casmir Gnanadickam Archbishop of Madras*, . A learned single Judge of this Court held that unless there is some other statute enacting a different law of inheritance applicable to Christian priests like the deceased in that case, only

Part V of the Indian Succession Act has to be applied to find out who is the heir of the deceased. That judgment does not also apply here as we have found on the facts that the deceased had not become a nun.

12. In the facts and circumstances of the case, we have no hesitation to uphold the judgment of the Tribunal and dismiss the appeal with costs of respondent Nos. 2 and 3.