

(2005) 05 KAR CK 0002
In the Karnataka High Court
Case No : M.F.A. No. 1639 of 1999

North West Karnataka Road Transport Corporation	APPELLANT
Vs	
Matadipathi and successor to Chikkamaskal Jangama Mutt	RESPONDENT

Date of Decision : 23-05-2005

Acts Referred:

Succession Act, 1925 — Section 2 (d), 41, 48

Citation : (2006) 4 KarLJ 172 : (2006) 1 KCCR 296 : (2006) 3 KLT 456

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : D. Vijaykumar, for the Appellant; T.C. Satishkumar, for the Respondent

Judgement

K. Sreedhar Rao, J.—Siddalinga Swamigalu of Chikkamaskalveera Shiva Mutt died in a motor vehicle accident occurred on 30.3.1993. The deceased Swamiji was travelling in a car bearing the registration No. MYC 2359. The bus belonging to the Karnataka State Road Transport Corpn. (hereinafter referred to as "K.S.R.T.C.") bearing No. KA 34-F 41 coming in a rash and negligent manner hit against the car as a result the Swamiji succumbed to injuries. The parents of the deceased Swamiji along with the successor to Chikkamaskalveera Shiva Mutt have jointly filed the claim petition seeking compensation.

2. The Tribunal dismissed the claim of the parents correctly on the ground that after renouncing the mundane world there will be a civil death of the person entering monastic order. The deceased after becoming Swamiji becomes member of the Guruparampara and his links with natural family gets severed.

3. The Tribunal has awarded compensation of Rs. 2,75,000 to petitioner No. 3, who is incumbent Swamiji of the Mutt. The K.S.R.T.C. is in appeal challenging the grant of compensation as excessive and also that the claim by the incumbent Swamiji is not maintainable in law.

4. The High Court of Kerala in Oriental Insurance Co. Ltd. Vs. Mother Superior,

S.H. Convent and Others, and 9 has made the following observations:

(7) Deceased joined the Holy Order of the Sacred Heart Congregation after renouncing her natural family. As soon as she professed the perpetual vow she ceased to be a member of her natural family and became a member of the Holy Order. She had embraced life of poverty, chastity and obedience. The convent became her family and Mother Superior became the head of the family as well as her legal representative. All her income by way of her salary and other benefits will devolve on the convent, of which the Mother Superior is the Administrator. Therefore, Mother Superior being the head of the convent is entitled to claim compensation on account of the death of the deceased.

(9) Therefore, even though the deceased continued to be an Indian Christian as defined u/s 2(d) of the Indian Succession Act, because of her civil death by becoming a member of the Holy Order the natural heirs mentioned in Sections 41 to 48 of the Indian Succession Act will not be her legal heirs. If she had made a will it was to take effect at once as though she were naturally dead. So also if one of her kinsmen dies leaving properties which according to ordinary rules of inheritance would descend to her, she will be overlooked as though she were no longer alive. Entering religious orders resulted in the eyes of the Church in death to the world. From the time of her entrance into the Holy Order she could not acquire anything and she acted only as a means of receiving for the benefit of the Holy Order. By becoming a member of the Holy Order she becomes a member of the family consisting of the Mother Superior and other members of that Holy Order. Therefore, the contention of the learned Counsel for the appellant that in view of Section 29(2) of the Indian Succession Act, Sections 41 to 48 of the said Act should apply in this case also, cannot be accepted.

5. The decision of the Supreme Court in *Sital Das Vs. Sant Ram and Others*, , at para 20, the following observations are made:

It is well-known that entrance into a religious order generally operates as a civil death. The man who becomes an ascetic severs his connection with the members of his natural family and being adopted by his preceptor becomes, so to say, a spiritual son of the latter, the other disciples of his Guru are regarded as his brothers, while the co-disciples of his Guru are looked upon as uncles and in this way a spiritual family is established on the analogy of a natural family.

6. In view of the above decisions, the head of the Mutt is entitled to maintain the petition to seek compensation though not for loss of dependency but for loss to estate caused to the Mutt.

7. The Division Bench of this Court in *A. Manavalagan Vs. A. Krishnamurthy and Others*, , has laid down guidelines regarding the working formula to ascertain loss to the estate. The claimant has produced evidence to show that the deceased Swamiji was working as a lecturer in a Sanskrit College and earning a salary of Rs. 1,508 p.m. Like in the case of a bachelor, 50 per cent is to be defrayed towards personal expenses. The balance of 50 per cent would be

treated as savings and contribution to the estate of the Mutt. Thus, the amount payable towards loss to estate would be Rs. 1,26,672 (Rs. 754 x 12 x 14). Rs. 10,000 to be awarded towards loss of expectancy and Rs. 10,000 for the funeral expenses. The total loss of compensation payable to respondent would be Rs. 1,46,672 with interest at 6 per cent from the date of petition till payment as against Rs. 2,75,000 awarded by Tribunal. The amount in deposit to be transmitted to the Tribunal for disbursement.