
(2023) 02 UK CK 0039

In the Uttarakhand High Court

Case No : Civil Miscellaneous Transfer Application (C-24) No. 53 Of 2019

Tehzeeb

APPELLANT

Vs

Saeed Ahmad & Others

RESPONDENT

Date of Decision : 14-02-2023

Acts Referred:

Code Of Civil Procedure, 1908 — Section 10, 24

Citation : (2023) 02 UK CK 0039

Hon'ble Judges : Vipin Sanghi, CJ

Bench : Single Bench

Advocate : Nikhil Singhal, Inder Pal Kohli

Final Decision : Allowed

Judgement

Vipin Sanghi, CJ

1) The petitioner is the widow of late Farman Ahmad. She has preferred this petition, under Section 24 of CPC, to seek transfer of M.A.C.P. No. 132 / 2018, titled 'Saeed Ahamd & others Vs Uttarakhand Transport Corporation & others', pending in the court of learned District Judge / M.A.C.T., Dehradun to the court of learned District Judge / M.A.C.T., Haridwar.

2) The case of the petitioner is that her husband died in a road accident on 19.07.2018, while travelling by bus of the Uttarakhand Transport Corporation, bearing registration No. UK-07 PA / 1929. Consequently, the petitioner preferred a claim petition before the learned District Judge / M.A.C.T. Haridwar, where she was residing. The respondents 1 to 3 are her in-laws and brother-in-law; respondent No. 4, Uttarakhand Transport Corporation; and respondent No. 5, is the driver of the bus which caused the fatality of the petitioner's husband. The petitioner states that respondents 1 to 3 have also filed a claim petition to claim compensation for the demise of late Farman Ahmad. The said claim petition has been filed before the court of the M.A.C.T. / Additional District Judge VI, Dehradun, vide M.A.C.P. No. 132 / 2018, titled 'Saeed Ahmad Vs Uttarakhand

Transport Corporation’.

3) The petitioner submits that even though the said claimants are resident of District Haridwar, they have preferred the claim petition before the Motor Accident Claims Tribunal at District Dehradun. The deceased was also the resident of District Haridwar at the same address, as furnished by respondents 1 to 3 in their claim petition. The petitioner, therefore, seeks transfer of the claim petition preferred by respondents 1 to 3 as aforesaid.

4) The submission of learned counsel for the petitioner is that, since the claimants in claim petition bearing M.A.C.P. No. 132 / 2018, are residents of District Haridwar, and the deceased was also a resident of District Haridwar, the claim petition should have been preferred before the District Judge, Haridwar. In any event, the claim petitions in relation to the same accident cannot proceed in different courts.

5) The petition is opposed by respondents 1 to 3. They submit that the claim petition was preferred by them earlier in point of time, i.e., in July 2018, whereas the petitioner preferred her claim petition only in December 2018. Since, their claim petition is earlier in point of time, by virtue of Section 10 of CPC, the claim petition preferred by the petitioner ought to be stayed. It is further argued that respondents 1 and 2 are in their late 60’s. In response to a query by the Court, learned counsel for respondents submits that the claim petition was preferred by the said respondents before the District Judge, Dehradun, since the said respondents were residing with their other son at Dehradun.

6) I may observe that in the claim petition filed by the respondents, i.e., M.A.C.P. No. 132 / 2018, the petitioner was not initially impleaded as a party respondent. It is only by way of amendment, for which an application was moved on or about 6th March 2019, that the petitioner herein was impleaded as respondent No. 3, in the claim petition preferred by the respondents.

7) I have heard the submissions of learned counsels, and I am inclined to allow this petition.

8) The address disclosed by respondents 1 to 3 in their claim petition is of District Haridwar. They had not disclosed any address of Dehradun in the said claim petition. The place of residence of the deceased has also been disclosed as falling in District Haridwar. Moreover, the submission premised on Section 10 CPC is misplaced, inasmuch as, the petitioner was impleaded in M.A.C.P. No. 132 / 2018, only by way of amendment for which an application was moved on or about 6th March 2019. Therefore, so far as the petitioner is concerned, the proceedings initiated by the respondents at Dehradun, were initiated only after her impleadment. Even the respondents have disclosed the address of the petitioner as that of District Haridwar, while also disclosing another address of Muzaffarnagar.

9) For the aforesaid reasons, I am inclined to allow this petition, and to transfer

M.A.C.P. No. 132 / 2018, Saeed Ahmad & others Vs Uttarakhand Transport Corporation & others from the court of learned District Judge / M.A.C.T., Dehradun to the court of learned District Judge / M.A.C.T., Haridwar. Upon transfer, the said petition shall to clubbed with M.A.C.P. No. 149 / 2018, titled 'Smt. Tehzeeb Vs Raghuveer Singh & others', pending in the court of learned District Judge / M.A.C.T., Haridwar.

10) Petition stands allowed in the aforesaid terms.