

KAMS080000162019



**BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL
AT MYSURU**

**(IN THE COURT OF ADDITIONAL SMALL CAUSES
AND SENIOR CIVIL JUDGE, AT MYSURU)**

PRESENT

Smt. ZARIFA BANU A.R.

B.A.L., LL.M.

**JUDGE, ADDITIONAL COURT OF SMALL CAUSES
AS A PRESIDING OFFICER,
MOTOR ACCIDENTS CLAIMS TRIBUNAL, MYSURU.**

DATED THIS THE 29th DAY OF JANUARY 2025

S.C. / 4 / 2019

Sundaramma

...

Plaintiff

-Versus-

Assistant Executive Engineer,
CHESCOM and another

...

Defendants

I.A.

Assistant Executive Engineer, CHESCOM, Kollegala : **Applicant/Defendant No.1**

-Versus-

Sundaramma : **Opponent/Plaintiff**

ORDERS ON I A

The learned counsel for the defendant No.1 filed this I.A under Order 7 Rule 11 (d) r/w Sec.151 of CPC for dismissal of plaint for the reasons mentioned in the accompanying affidavit.

2. In the accompanying affidavit, the Assistant Executive Engineer, CESC, Kollegala Sub-Division, Chamarajanagara District by name M.Raju has submitted that, the plaintiff has filed this suit claiming death compensation of her husband and father-in-law who were died due to electrocution occurred

on 11.12.2016 at 04.00 a.m., in their hut situated at Dhanagere Village, Kollegala Taluk and Chamarajanagara District. The alleged incident occurred within the jurisdiction of Chamarajanagara District, therefore the plaintiff cannot maintain the present suit in Mysuru District. Hence, prays to dismiss the suit for want of jurisdiction or transfer the same to the jurisdictional court in the interest of justice and equity.

3. On the other hand, learned counsel for the plaintiff filed his objection and contended that, the CHESCOM is a government aided institution, it has four to five wings and one of its office is situated at Kuvempunagara, Mysuru. The application filed by the defendant No.1 is not maintainable. Hence, prays to dismiss the application with cost.

4. Heard arguments of both side. Perused material on record.

5. The points for consideration arises as follows:

1. Whether the defendant No.1 made out ground to dismiss the suit U/O 7 rule 11 (d) r/w Sec.151 of CPC?
2. What order?

6. The answer to the above said points are as follows:

Point No.1 : In the Negative.

Point No.2 : As per the final order
for the following:

REASONS

7. **Point No.1:** The plaintiff has filed this suit claiming death compensation of her husband and father-in-law who were died due to electrocution occurred on 11.12.2016 at 04.00 a.m., in their hut situated at Dhanagere Village, Kollegala Taluk and Chamarajanagara District. According to the plaintiff the defendant No.1 being a

Government aided institution has four to five wings and one is situated at Kuvempunagara Mysuru and as such suit is maintainable as per section 19 of Civil procedure code. Section 19 of CPC contemplated that,

"Where a suit is for compensation for a wrong done to a person if the wrong was done within the local limits of the jurisdiction of one Court and the defendants resides and carry on business in another Court, the suit may instituted at the option of the plaintiff in either of said Courts".

8. Herein the case on hand the defendant No.1 being CHESCOM carries its business at Mysuru. Thus as per the law enunciated in section 19 of CPC the plaintiff has to file suit either before Chamrajnagara or before Mysuru courts where the defendant No.1 carries its business. Furthermore the defendants though filed their vakalaths have not chosen to file their written statement and not even contest the suit. Now when case is posted for defendant's evidence, they come

with this application without any sufficient cause. However, as it is well settled principle of law that the suit can be rejected based on the averments of the plaint, not on the defense taken by the defendants. More over in the case on hand the defendants have not filed written statement and there is no defense of the defendants to be considered. Hence with these observation this court is of the considered view that the defendant No.1 has not made out ground to reject the suit. **Hence, Point No.1 answered in the negative.**

9. **Point No.2:** In view of above said discussion in Point No.1, this court proceeds to pass the following:

O R D E R

IA filed by the defendant
No.1 under Order 7 Rule 11
(d) r/w Sec.151 of CPC is

hereby dismissed with cost
of Rs.1000/-.

*(Dictated to the Stenographer directly on
computer, typed by her, revised, corrected and then
pronounced by me in the open Court, on this the 29th
day of January, 2025)*

(ZARIFA BANU A.R.)
Judge, Addl. Court of
Small Causes & MACT,
MYSURU.