

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2015

CORAM:

THE HONOURABLE MS.JUSTICE K.B.K.VASUKI

C.M.A.No.1810 of 2015

and

M.P.No.1 of 2015

The Union of India owning
Southern Railway
Rep. By its General Manager,
Chennai.

... Appellant

Vs.

1. Rathinam
2. K.Selvi
3. M.V.Selvam

... Respondents

Prayer : This Appeal filed under Section 23(1) of the Railway Claims Tribunal Act 54 of 1987, to set aside the order dated 30.07.2014, made in OA (II-U)No.258 of 2013 on the file of the Railway Claims Tribunal, Chennai Bench.

For Appellant : M/s.V.Bhavani Subbaroyan

JUDGMENT

The Civil Miscellaneous Appeal is disposed of at the time of admission stage itself.

2. The Civil Miscellaneous Appeal is filed by the Southern Railway against the award of compensation of Rs.4,00,000/- to the widow, daughter and son of one Veerasamy, who died, due to accidental fall, while travelling in the Train on 17.02.2013, between Ettimadi and Valayar Railway Station.

3. The Tribunal, on the basis of available evidence, found that the victim, who was a bona fide passenger, died due to untoward incident as defined under Section 123(c)(2) of the Railways Act, 1989 and accordingly, awarded a sum of Rs.4,00,000/- as compensation.

4. Heard the learned counsel appearing for the Appellant/Southern Railway.

5. In this appeal, the only grievance raised on the side of the Southern Railway is that there is absolutely no proof to show that he travelled in the Train with a valid ticket and he fell down and sustained injuries and died. It is sought to be argued that there

was no eye witness and the statements of the family members contradicted each other.

6. This Court is not inclined to accept such ground raised on the side of the Appellant/Southern Railway, in view of the mandatory investigation report of the Divisional Railway Manager, Palghat Division, which is produced as one of the documents before the Railway Claims Tribunal. The context of the report is extracted in Para-5.1 of the impugned award and the same refers to 2nd class M/E Ticket No.854198861 Ex-CBE-PGT, which was recovered from the shirt pocket of the deceased during the inquest. It is further stated in the report that the deceased was travelling in the Train from CBE to PGT and accidentally fell down in the track while travelling on the doorways at KM508/14-16 on 'A' line between ETMD-WRA and succumbed to the injuries and it is an accidental death due to fallen down from running train and it is an untoward incident as defined under Section 123(c)(2) of the Railways Act. The above report referring to the place, at which the accident occurred and the railway ticket recovered from the shirt pocket of the deceased, are clinching evidence to reject the ground on which the award is impugned herein.

7. In my considered view, the Railway Claims Tribunal has, after appreciating all the facts and circumstances of the case and the evidence adduced, rightly arrived at a conclusion that the victim, Veerasamy, died due to accidental fall from the running Train and rightly awarded just compensation to his wife and children.

8. Hence, this Court finds no reason to entertain the Civil Miscellaneous Appeal. Accordingly, the Civil Miscellaneous Appeal stands dismissed. The Appellant/Southern Railway is directed to deposit the entire award amount, with proportionate interest after deducting the amount that has already been deposited by them, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants are permitted to withdraw the entire award amount, with the accrued interest, on due application. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

ogy

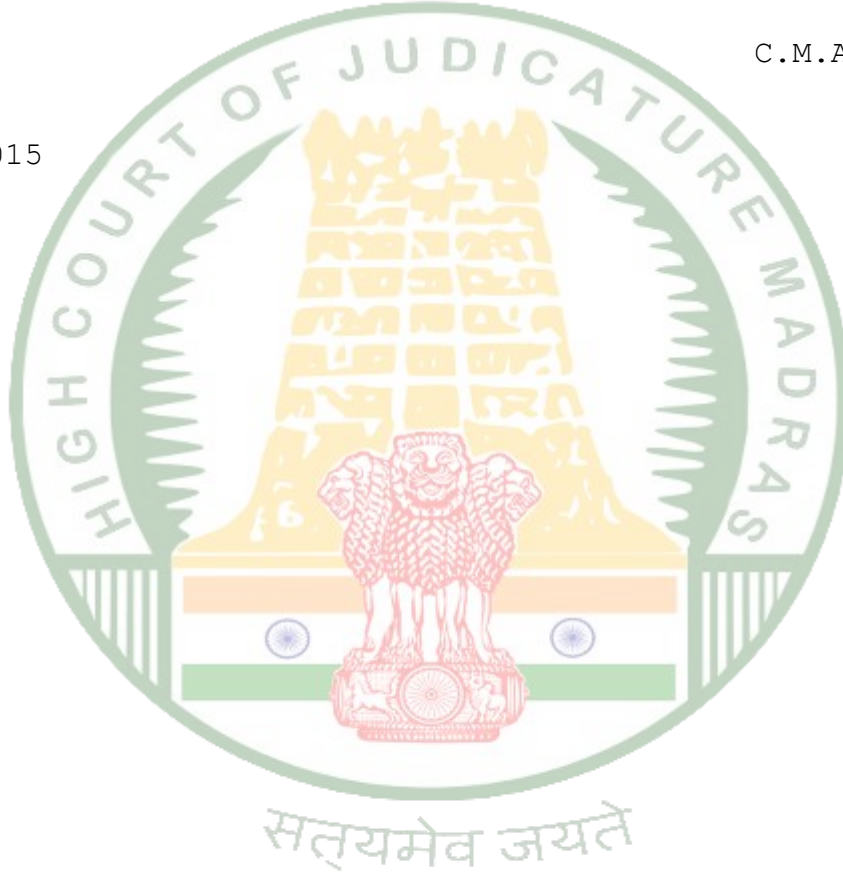
To

1. The General Manager,
Southern Railway
Chennai.
2. The Railway Claims Tribunal,
Chennai Bench.

1 cc to M/s.V.Bhavani Subbaroyan, Advocate Sr.No.43413

C.M.A.No.1810 of 2015

vsn(co)
pmk.3.9.2015



WEB COPY