

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.12.2015

Coram:

The Hon'ble Mr.Justice T.RAJA

CMA No.2813 of 2015

and

M.P.No.1 of 2015

Union of India owning
South Central Railway
rep. by its General Manager
Secunderabad. .. Appellant

Versus

1. T.Viswanath
2. T.Kesavaprasad
3. Mrs.T.Santamma .. Respondents

Civil Miscellaneous Appeal filed under Section 23 (i) of Railway Claims Tribunal Act, 1987, against the judgment and decree dated 29.06.2015 made in O.A.(II-V) No.219/2014 by the Railway Claims Tribunal, Chennai Bench.

For Appellant .. Mr.U.Venkatesan

For Respondents.. Mr.R.Sekaran

JUDGMENT

The General Manager, South Central Railway, Secunderabad, has filed the present appeal against the judgment and decree dated 29.06.2015 made in O.A.(II-V) No.219/2014 by the Railway Claims Tribunal, Chennai Bench, awarding a sum of Rs.4,00,000/- for the loss of life of T. Subbarayulu.

2. The Respondents Applicants filed O.A.(II-V) No.219/2014 on the file of the Railway Claims Tribunal, Chennai Bench, claiming a sum of Rs.4,00,000/- towards compensation for the loss of life of T.Subbarayulu, alleging that the deceased by purchasing II Class ordinary ticket No.70452128 for travel from Kavali to Venkatagiri, while travelling in Krishna Express on 20.4.2013 at 20.00 hours, due to rush and jerk of the train, accidentally fell down from the running train at Venkatagiri Railway Station, suffered (1) bleeding injury near left eye, (2) crush and cut injury on right foot, (3) cut injury near the left buttock, (4) bleeding injury below the left knee and (5) aberrations all over the body and died at the place of

occurrence, leaving behind the Respondents/Applicants as his legal heirs.

3. The appellant herein contested the claim of the Respondents/Applicants alleging that the deceased was negligent and committed criminal act, no oral evidence was let in to prove that the accident took place only due to rush and jerk of the train. From the statement of Ch.Seshadri Rao, Dy.SS/Venkatagiri, it is clearly established that one male person had fallen from the said train No.170406 on Platform No.2 towards South end of Venkatagiri Railway Station and later he was identified as Tupakula Padasubba Rayudu aged 65 years. The respondent further contended that Section 123(c)(2) and Section 124-A are not applicable, as they have no substance in law.

4. The learned Tribunal after considering the oral and documentary evidence, came to the conclusion that since it is baseless, frivolous and un-supportive of any evidence to substantiate the plea of the Appellant herein that Section 123 (c)(2) and Section 124-A are not applicable. The learned Tribunal relied upon the decision of the Supreme Court in Union of India v. Prabhakaran Vijaya Kumar and Others [(2008) 4 MLJ 323 (SC)], wherein it has been held that liability of the Railway is strict and it is irrelevant who was at fault. The learned Tribunal also relied upon a decision of the Supreme Court in (Jameela & Others v. Union of India) AIR 2010 SC 3705, wherein it has been held that even if it were to be assumed that a passenger fell down from the train due to his own negligence, it will not have any effect on the compensation payable under section 124-A of Railways Act, 1989. Accordingly the learned Tribunal came to the conclusion that in the present case the Railways had not led any oral evidence to rebut the specific plea raised by the Applicant No.1 in the cross-examination disputing such a suggestion. Ultimately, the learned Tribunal held that the Applicants are entitled to statutory compensation as prescribed under Part I of Schedule annexed to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 which comes to Rs.4.00 lakhs. The learned Tribunal directed the appellant herein to deposit a sum of Rs.4.00 lakhs along with interest at 6% per annum from the date of registration of petition (25.08.2014) till the date of its payment, within 60 days from the date of receipt of the order, failing which the rate of interest payable would stand revised to 9% per annum after the said period. As against the said award, the present appeal is sought to be filed.

5. Since the reasonings given by the learned Tribunal is capable of acceptance by any man of ordinary prudent, this Court fairly finds no sufficient reason to interfere with the award passed by the learned Tribunal. The reason is that from the statement of Ch.Seshadri Rao, Dy. SS/Venkatagiri, it is clearly

established that one male person had fallen from the said train No.170406 on Platform No.2 towards South end of Venkatagiri Railway Station and later he was identified as Tupakula Pedasubba Rayudu aged 65 years. It is also not in dispute that he was holding valid ticket for the said journey. The deceased being a bona fide passenger, was a victim of an untoward incident and the Respondents/Applicants are the only legal heirs hence they are entitled to statutory compensation as prescribed under Part I of Schedule annexed to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. Hence, there is no merit in the present appeal, accordingly the appeal stands dismissed.

6. The General Manager, South Central Railway, Secunderabad is directed to deposit the entire award amount together with interest and costs, to the credit of O.A.(II-V) No.219/2014 on the file of the Railway Claims Tribunal, Chennai Bench, within a period of four weeks from the date of receipt of copy of this order. On such deposit, it is left open for the Respondents/Applicants to move appropriate application to withdraw the award amount along with accrued interest and costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gr.

To

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

+ 1 cc to MR.U. Venkatesan, Advocate Sr.68827

+ 1 cc to Mr.R. Sekaran, Advocate Sr.68828

C.M.A. No.2813 of 2015

KJI (CO)

EU 17.02.16