

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.1393 of 2016

&

C.M.P.No.10619 of 2016

The Union of India owning
Southern Railway
represented by its
General Manager
Chennai

... Appellant

Vs.

1.Mrs.G.Visranthamma
2.G.Smily
3.G.Bharath Kumar
4.G.Ananya Lahari
5.Smt.G.Yelisamma

... Respondents

Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 54 of 1987 to set aside the order dated 28.01.2016 and made in O.A.No.(II-U) 85/2015 on the file of the Railway Claims Tribunal, Chennai Bench.

For Appellant : Ms.V.Bhavani Subbaroyan
For Respondents : Mr.T.Rajamohan

JUDGMENT

Questioning the liability, the appellant being the Southern Railway owned by Union of India, has approached this Court with this appeal under Section 23 of the Railway Claims Tribunal Act, 54 of 1987.

2. It is revealed from the records that the respondents 1 to 5 had moved the Railway Claims Tribunal, Chennai Bench with a claim petition in O.A.(II-U) 85/2015 claiming a sum of Rs.4,00,000/- for the death of the first respondent's husband, father of the respondents 2 to 4 and son of the 5th respondent, one Kottaiah in a railway accident, which is said to have been

taken place on 27.04.2014.

3. It is alleged that the deceased G.Kottaiah, a resident of Pokuru village in Prakasam District, Andhra Pradesh used to travel by train to go out of station for work. That on 27.04.2014, the said Kottaiah, in order to proceed to Chennai for work along with his two friends had obtained Journey Ticket No.02167950 made for three adults costing Rs.300/- valid for journey from Singarayakottai to Chennai Central). It is also alleged that he had boarded in general compartment of Pinakini Express to visit Chennai in connection with his work. While the train was reaching Nandhiyambakkam Railway Station, due to the jerk and jolt of the train, he had fallen down from the running train and as a result of which, he had sustained fatal injuries and died on the spot. Therefore, claiming totally a sum of Rs.4,00,000/- along with interest at 9% per annum, the respondents / claimants had made a claim before the Railway Claims Tribunal, Chennai Bench.

4. The claim was resisted by the respondent Union of India owning Southern Railway, represented by its General Manager. However, on appreciation of evidences available on record, the Railway Claims Tribunal had proceeded to pass an award of Rs.4,00,000/- only along with interest at the rate of 6% per annum from the date of claim petition till the date of its payment as prescribed under Part I of Schedule annexed to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. The Tribunal had further directed the respondent to pay a sum of Rs.75,000/- to Respondent No.1 together with entire interest on Rs.4,00,000/- and Rs.25,000/- to Applicant No.5. As regards the remaining balance of Rs.3,00,000/- is concerned, the Tribunal had directed that Rs.1,00,000/- each would go to the minors i.e., Respondents 2 to 4 which shall be deposited by the respondent Railway in a Fixed Deposit Scheme in their favour in any one of the public sector banks till they attain majority. The Tribunal had also observed that the first applicant shall be at liberty to withdraw yearly interest which may be accrued on such fixed deposit directly from the bank for the maintenance and upkeep of her son and daughters. Questioning their liability, the respondent Railway has preferred this appeal.

5. Ms.Bhavani Subbaroyan, learned counsel appearing for the appellant Railway has contended that as per the report of the Station Master, Athipattu the incident was a case of trespass and runover and subsequently the deceased was killed, which would not fall under the definition of untoward incident within the meaning of Sec.123 C (2) of the Railway Act. She would further contend that when the incident was not fallen under the category of untoward incident, the respondent Railway was not liable to pay the compensation under Section 124-A (a) of the

Railways Act. She has also maintained that the Railway Tribunal ought to have rejected the claim petition since it was stated in the report of RPF that one Antony and Chandrasekar, who were the relatives, were neither examined as a witness to the incident nor their statements were recorded. She has also contended that the Tribunal ought to have exonerated the appellant Railway from the liability under Section 124-A (B) of the Railways Act.

6. This Court has considered the submissions made by Ms.Bhavani Subbaroyan, learned counsel for the appellant Railways and perused the grounds of appeal along with the award passed by the Railway Claims Tribunal.

7. This Court, having regard to the related to the facts and circumstances, finds that the appeal itself is not maintainable as the award passed by the Tribunal does not require the interference of this Court. Further, this Court is also of considered view that since the award of the Tribunal seems to be within the bounds of Part I of Schedule annexed to the Railway Accidents and Untoward Incidents (Compensation) Rules,1990, it does not require the interference of this Court to exercise its appellate jurisdiction.

8. Keeping in view of the above fact, this Court finds that the appeal itself is liable to be dismissed. Accordingly, the appeal itself is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

The Railway Claims Tribunal
Chennai Bench

+1cc to Mr.T. Rajamohan, Advocate, S.R.No.41357

+1cc to Mr.V. Bhavani Subbarayan, Advocate, S.R.No.41465

GMI (CO)

md (09/11/2016)

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