

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 22.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.98 of 2016

and

CMP No.985 of 2016

The Union of India owning
Southern Railway
rep. by its General Manager,
Chennai.

...Appellant

Versus

1.K.Dhanalakshmi
2.K.Soundararaj
3.Kalavathi
4.Vijayalakshmi
5.K.Balakrishnan
6.K.Vivekanandan
7.Kaliraj
8.Sathya Bama
9.K.Rajkumar

(Son of the deceased Krishnasamy aged about 30 years
and his whereabouts is not known since he
left the house at the age of 13 years)

....Respondents

Prayer: Civil Miscellaneous Appeal filed under section 23 of
the Railway Claims Tribunal Act 54 of 1987, against the order
made in O.A.No.(IIU) 95 of 2014 on the file of the Railway
Claims Tribunal, Chennai Bench dated 15.04.2015.

For Appellant :: Ms.V.Bhavani Subbaroyan

J U D G M E N T

This civil miscellaneous appeal has been taken up for
disposal at the stage of admission itself.

2.The present civil miscellaneous appeal is directed against
the impugned order passed by the learned Railway Claims
Tribunal, Chennai Bench in O.A.No.(IIU) 95 of 2014 dated
15.04.2015 awarding a sum of Rs.4,00,000/- with interest at 9%

p.a. from the date of order till the date of actual payment.

3. Heard the learned counsel for the appellant and perused the documents available on record.

4. Learned counsel appearing for the appellant would submit that the claims Tribunal erred in fixing the liability on the appellant and failed to appreciate the stand of appellant that the death of Krishnasamy will not come under definition of untoward incident under Section 124-A of the Railway Act and that the Claims Tribunal ought to have rejected the claim since the deceased did not possess proper ticket to travel in an express train. He further submit that the Tribunal failed to appreciate the reply statement filed by the appellant where it was categorically pointed out that if the deceased had accidentally fallen from the train which was nearing the destination station there would have been a complaint to the station master and/or chain pulling by the co passengers and no such incident has been reported on the alleged date of incident during day time and that the Tribunal ought to have rejected the claim since no eye witness was examined and proved the case of the respondent.

5. This Court is not able to see any merit in the submissions of the learned counsel for the appellant. The reason is that the deceased Krishnasamy who was travelling in a Intercity point to point express train in general compartment from Sattur to Virudhunagar by purchasing only a passenger train ticket, due to old age had slept and when the train was nearing Virudhunagar, he accidentally fell down from the train and died on the spot on 24.04.2013 at about 8 hours. Subsequently, after obtaining report from the driver and guard of the train, an inquest was conducted by RPSI, Tuticorin Railway Police Station on 25.04.2013 at 6 a.m. at KM 540/700-800 between Thulukkapatti-Virudhunagar Railway stations and the inquest was completed at 08.00 a.m. on the same day at the same place. From the inquest report dated 25.04.2013, the Sub Inspector of Railway Police, Tuticorin has mentioned that the deceased has procured valid railway ticket and travelled in the intercity express. When the train was running near Virudhunagar railway station, he fell down and died. On verification from the body of the deceased, it was clear that the deceased would have travelled in the intercity express.

6. In this background, the learned Tribunal, considering the document Ex.A1, Message from SS/VPT showing that Sri Parathiraj, Keyman reported that one male body aged 53 years lying by the side of the track at KM 540/700-800 between Virudhunagar and

Tulukapatti, and the registration of FIR by the police, together with the inquest proceedings were drawn by police, which resulted in the recovery of journey ticket in possession of the deceased, held that the death of Krishnasamy was the result of untoward incident. The learned Tribunal also considered the Post Mortem Certificate which opined that the deceased died due to injury caused to brain and multiple injuries and shock due to railway traffic accident and the same was supported by the final report recorded by the police saying that the death was due to unexpected fall from the train. Thus, when the learned Tribunal has rightly followed the principles laid down in the decision of the Hon'ble Apex Court reported in Jameela & Others v. Union of India, AIR 2010 SC 3705, wherein it has laid down 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 and again followed another rulings laid down in Union of India vs Prabhakaran Vijaya Kumar and others 2008 4 MLJ 323, wherein the Hon'ble Supreme Court stated that liability of the Railways is strict and it is irrelevant who was at fault, and awarded a sum of Rs.4,00,000/- with interest at 9% p.a. from the date of order till the date of actual payment, this court is not able to find any infirmity in the impugned order. Accordingly, the civil miscellaneous appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

7.The appellant is directed to deposit the award amount along with accrued interest, if not already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimants to withdraw the same by moving appropriate application before the Tribunal.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Railway Claims Tribunal,
Chennai Bench.

CMA No.98 of 2016

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kra 26.05.2016