

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2017

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THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.841 of 2015

N.Sumathi

... Appellant

Vs.

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

2.Rajalakshmi

... Respondents

Civil Miscellaneous Appeal filed under Section 23(1) of the Railways Claims Tribunal Act, 1987 against the judgment dated 27.10.2014 passed in O.A.No.(II-U) 353 of 2013 on the file of the Railways Claims Tribunal, Chennai Bench.

For Appellant : Mr.K.Govi Ganesan

For Respondents : Mr.M.Vijay Anand,
Additional Standing Counsel (R1)

J U D G M E N T

Challenging the order passed in O.A.No.(II-U) 353 of 2013 on the file

of the Railways Claims Tribunal, Chennai Bench, the claimant has filed the

above appeal.

2.The claimant has filed the Claim Petition before the Tribunal claiming a compensation of Rs.4,00,000/- for the death of her husband, who was alleged to have fallen down from the running Train between Sulakarai and Tansi Gate and sustained severe injuries and succumbed to injuries. The claimant is the wife of the deceased.

3.It is the case of the claimant that on 02.12.2012, the deceased K.Manikandan travelled in an unreserved compartment of a Train from Dindigul to Sattur and due to over crowding, he happened to travel near the toilet and as a result of sudden jerk, he accidentally fell down from the running Train between Sulakarai and Tansi Gate and succumbed to injuries. The claimant contended that the travelling ticket was lost in the accident.

4.According to the 1st respondent, it was a case of the one other than fall from Train for which the 1st respondent is not liable for any compensation. Further, the 1st respondent contended that the deceased was not a *bonafide* passenger. In these circumstances, the 1st respondent prayed for dismissal of the petition.

5.The 2nd respondent is the mother of the deceased.

6. Before the Tribunal, on the side of the claimant, A.W.1 was examined and 9 documents, Exs.A1 to A9 were marked. On the side of the 1st respondent, Ex.R1 was marked. However, there was no oral evidence on the side of the 1st respondent. The Tribunal, taking into consideration the case of both the parties, dismissed the petition finding that it was not a case of accidental fall from the running Train. On the side of the claimant, the Inquest Report was marked as Ex.A6 and the Final Report was marked as Ex.A7.

7. On a perusal of the Reports, it could be seen that in Ex.A6 Inquest Report, the Sub Inspector of Police has stated that nobody claimed the body of the deceased and that he directed the Virudhunagar Municipality to cremate the body. Whereas, in the Final Report, the very same Sub Inspector of Police has stated that one Narayanasamy contacted him and requested him not to cremate the body and the said Narayanasamy informed that the deceased was his brother's son K.Manikandan and the person who had found a diary and Cell Phone in the place of occurrence had informed him and thereafter, he came in person and confirmed the identity of the person and pursuant to the request made by the said Narayanasamy, the body was handed over to him by the Sub Inspector of Police. Though

Police had given two different versions in both the Reports. Apart from this discrepancy, even in the evidence of A.W.1, the claimant had stated that she saw the body of her husband at the place of occurrence and identified her husband's body from the Tattoo on his hand. Further, she denied the suggestion that the deceased's legs were severed. However, in the Inquest Report, the Police has specifically stated that both the legs of the deceased were severed.

8. It is also pertinent to note that the mother-in-law of the claimant has not joined her for filing the Claim Petition and therefore, she was arrayed as the 2nd respondent in the Claim Petition.

9. Admittedly, the travelling ticket was not recovered from the body of the deceased. The Inquest Report, the Final Report and the evidence of A.W.1 creates a doubt with regard to the alleged accident pleaded by the claimant.

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10. On a perusal of Ex.R1, it is clear that the track at the spot in question was located at a very high altitude from the ground level and if anyone fell down from the Train, he would have been thrown away from the Train and landed on the ground only and there was no chance of the body of

<http://www.judis.nic.in> the deceased to go under the wheels of the Train and cut into several

pieces. As per Exs.A6 & A7, the claimant did not come to the place of occurrence or claimed the body from the Police. However, A.W.1, in her evidence, has stated that she went to the place of occurrence and identified the body of her husband.

11.Since the evidence let in by A.W.1 is contrary to Exs.A6 & A7, the Tribunal has rightly disbelieved the case of the claimant and dismissed the petition. The claimant has failed to establish her case by any acceptable evidence.

12.In these circumstances, I do not find any ground to interfere with the order passed by the Tribunal. The appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

05.12.2017

Index : No

Internet : Yes

Speaking order

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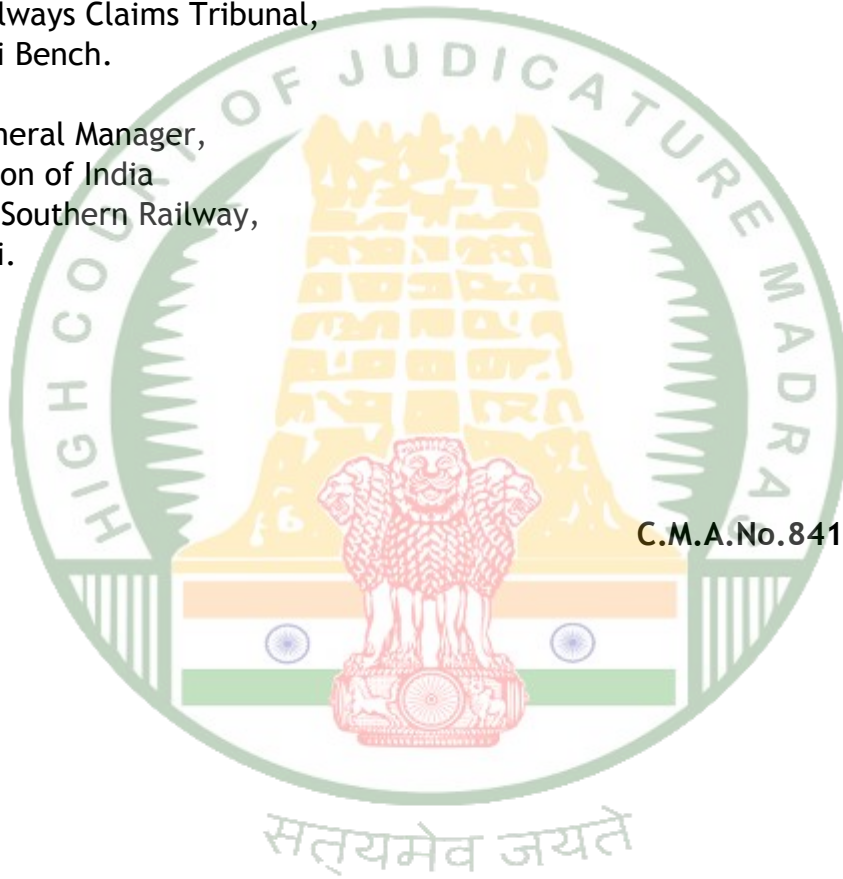
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M.DURAISWAMY, J.

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To

- 1.The Railways Claims Tribunal,
Chennai Bench.
- 2.The General Manager,
The Union of India
owning Southern Railway,
Chennai.



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