

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2017

CORAM
THE HON'BLE MR. JUSTICE M.DURAIWAMY

C.M.A.No.965 of 2015

M.Subramani

... Appellant

Vs.

The Union of India
owning Southern Railway,
rep by its General Manager,
Chennai - 600 003.

... Respondent

Civil Miscellaneous Appeal filed under Section 23(a) of the Railway Tribunal Act against the order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.109 of 2014 dated 12.03.2015.

For Appellant : Mr.S.Parthasarathy

For Respondent : Mrs.A.Shrijayanthi,
Standing Counsel for Southern RailwayJ U D G M E N T

Challenging the Award passed in O.A.No.109 of 2014 on the file of the Railway Claims Tribunal, Chennai, the claimant has filed the above appeal.

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2.The appellant filed a claim petition before the Tribunal claiming compensation of Rs.4,00,000/- for the injuries sustained by him in the accident occurred on 16.02.2014.

3.It is the case of the appellant that he, along with his family members, had travelled by a Train from Mathur to Pichchandar Koil and while the applicant was getting down from the Train at Pichchandar Koil Railway Station, due to sudden start of the Train, he had accidentally fallen down from the moving Train and sustained injury on his right leg and multiple injuries all over the body. Thereafter, he was taken to the Government Hospital, Trichy, where he was given first aid and thereafter, he was taken to Government Hospital, Thanjavur, where he took treatment as an in-patient.

4.The respondent/Railway admitted that the claimant had fallen down from the moving Train. However, has taken a stand it was a self-inflicted injury since he had failed to take care of himself as an ordinary man of prudence and hence, the respondent is not liable to pay any compensation.

5.Before the Tribunal, on the side of the claimant, A.W.1 was examined and 4 documents, Exs.A1 to A4 were marked. The Tribunal, taking into consideration the case of both parties, found that the claimant was a *bonafide* passenger and he had sustained injuries in the accident that had occurred on 16.02.2014. The Tribunal, took into consideration the judgment

of the Andhra Pradesh High Court reported in *II (2005) ACC 324 (Union of India vs. S.Yadagiri @ Yadaiah & another]* and came to the conclusion that the burden of proving that the passenger had died or sustained injuries on account of self-inflicted injury squarely rests upon the Railways.

6. In the case on hand, no one was examined on the side of the Railways and no document was marked. In the absence of any evidence let in by the respondent/Railways, the Tribunal found that the respondent is liable to pay compensation. The Tribunal also took into consideration Ex.A4 Discharge Summary. As per Ex.A4, the claimant suffered injury in right foot and he underwent surgery on 15.03.2014 and was discharged on 21.03.2014. The Tribunal found that the claimant is entitled to a maximum compensation of Rs.80,000/- under Rule 3(3) of the Railway Accidents and Untowards Incidents (Compensation) Rules, 1990. However, awarded only a sum of Rs.50,000/-. Having found that the claimant is entitled to a maximum compensation of Rs.80,000/-, without any reasoning, whatsoever, the Tribunal had fixed the compensation at Rs.50,000/-. The Tribunal should have given reasons for reducing the compensation from Rs.80,000/- to Rs.50,000/-. Therefore, in the absence of any finding given by the Tribunal, it should be held that the claimant is entitled for a sum of Rs.80,000/- as compensation. That apart, under Ex.A4, it was established

that the claimant had undergone a surgery and was also taking treatment as in-patient from 15.03.2014 to 21.03.2014 and was also taking treatment as out-patient and therefore, the award of Rs.80,000/- as compensation would be just and proper.

7. In these circumstances, for the reasons stated above, the compensation of Rs.50,000/- awarded by the Tribunal is enhanced to Rs.80,000/-. In other aspects, the Award of the Tribunal stands unaltered. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

Index : No
Internet : Yes
Speaking order
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14.11.2017

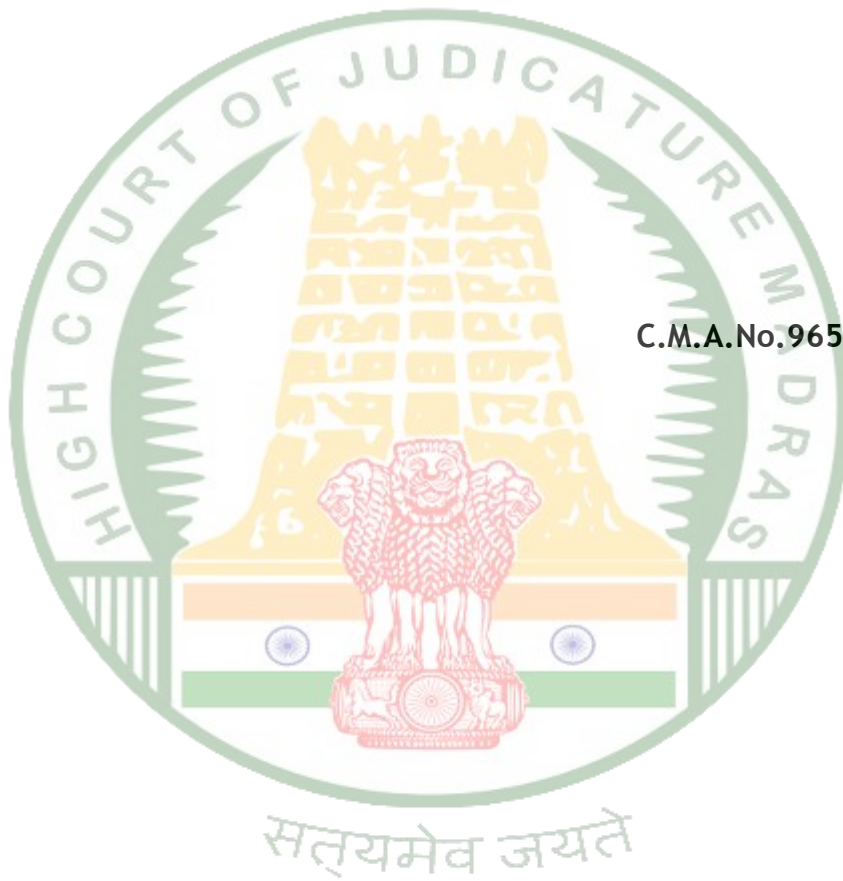
To

The Railway Claims Tribunal, Chennai.

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M.DURAI SWAMY, J.

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