

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-04-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.149 of 2010

and M.P.No.1 of 2010

The Union of India Owning
Southern Railways,
Rep.by its General Manager
Chennai - 600 003 ... Appellant/Respondent

Vs

1.Chinnakannan
2.Patchaiammal ... Respondents/Applicants

Civil Miscellaneous Appeal is filed under Section 23 of Railway Claims Tribunal Act 54 of 1987 against the final order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.200800047 dated 11.06.2009.

For Appellant : Mr.J.Harikrishnan
For Respondents : Mr.T.Raja Mohan

J U D G M E N T

This appeal arises against the final order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.200800047 dated 11.06.2009.

2. The appellant is the respondent and the respondents are the claimants in O.A.No.200800047 dated 11.06.2009 before the Railway Claims Tribunal, Chennai.

3. The respondents who are the parents of the deceased C.K.Murugesan filed claim petition before the Railway Claims Tribunal, Chennai for the death of their son who died on 25.04.2004. According to the respondents/claimants, while the deceased attempted to board Train No.6351, fell down from the train at Vridhachalam Railway Station Platform and died on the spot. The deceased was aged 22 years at the time of accident, working as a labour and hence the respondents/claimants filed claim petition for a sum of Rs.4,00,000/- as compensation.

4. The appellant herein filed reply statement denying all the averments contained in the claim petition. It is further stated that the deceased attempted to entrain the moving train and fell down due to his own carelessness and negligent act for which the appellant is not liable under Section 124-A(b) of the Railways act, 1989.

5. Before the Tribunal, the second respondent herein, mother of the deceased was examined as A.W.1 and exhibits A.1 to A.7 were marked on their side. On the side of the appellant, report of the Divisional Railway Manager was marked as Ex.R.1 and no one was examined.

6. The Tribunal, after analysing the oral and documentary evidence on record, especially Ex.A.5 original ticket and following the judgments of the Hon'ble Apex Court in "Union of India vs. Prabhakaran Vijaya Kumar & others reported in 2008 (4) MLJ 323 (SC) and Andhra Pradesh High Court in "Union of India vs. Kurukundu Balakrishnaiah reported in 2004 ACJ 529 (AP), wherein it is held that as per Section 124-A of the Railway Act, it is wholly irrelevant as to who was at fault for the accident, held that the deceased was a passenger in the train and died due to the accident occurred at Vridhachalam Railway Station and awarded a sum of Rs.4,00,000/- as compensation. Against the said order, the appellant has preferred the present appeal.

7. The learned counsel for the appellant would submit that the Tribunal had not given any opportunity to the appellant to cross examine A.W.1, the mother of the deceased and also not given any opportunity to let in any evidence. It is further submitted that from Ex.R.1, report of the Divisional Railway Manager, it is clear that the deceased attempted to board the moving train, fell down and died due to his own carelessness. Further, the Tribunal erred in not giving any opportunity to prove that the accident does not fall within the exception of Section 124A of the Railways Act. The body of the deceased was found in two pieces in the railway track which would show that the deceased has slipped down and fell before the running train. It is further stated that the Tribunal has not properly appreciated the judgments relied upon by the appellant and erroneously applied the judgment relied upon by the respondents.

8. The learned counsel for the respondents submitted that the respondents/claimants have proved that the deceased died while getting down from the train and that the Tribunal has properly appreciated the judgments relied upon by the respondents under Section 124-A and prayed for dismissal of the appeal.

9. I have heard the rival submissions and perused the

materials available on record.

10. The contention of the learned counsel for the appellant that the Tribunal had not given any opportunity to the appellant to cross examine A.W.1 and also not given opportunity to let in evidence is not supported by any acceptable evidence. It is not the case of the appellant that they sought for cross examination of A.W.1 and the tribunal refused to grant same. Similarly, there is nothing on record to show that the appellant sought to cross examine the witness and the said request was also rejected by the Tribunal. The Tribunal has considered the arguments of the Presiding Officer and then only passed the order.

11. The Tribunal, after considering the judgments of the Hon'ble Apex Court and Andhra Pradesh High Court and also Section 124-A of the Railway Act, held that the appellant is liable to pay compensation to the respondents. The Tribunal has given cogent and valid reasons for awarding the compensation to the respondents/claimants and there is nothing affirmative in the said order.

12. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13. The appellant is directed to deposit the entire amount awarded by the Railway Claims Tribunal, Chennai, within a period of six (6) weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the respondents/claimants are permitted to withdraw their share amount alongwith interest, less the amount already withdrawn, if any.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

1 The Railway Claims Tribunal,
Chennai

2 The Section Officer, VR Section, High Court, Madras

+lcc to Mr.J. Harikrishna, Advocate, S.R.No.19605

+lcc to Mr.T. Rajamohan, Advocate, S.R.No.19817

sai (CO)

md(27/04/2017)

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