

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.2351 OF 2013

1. Gnanaselvi
2. Nancy Adaikalamery
3. Minor, Henry Jose
4. Minor Leomary
5. Sebasthiammal Appellants/Petitioners

Vs.

1. Union of India, Souther Railway,
Represented by its General Manager,
Southern Railway, Chennai- 600 003.
2. The Chief Commercial Manager/Claims,
Southern Railway,
Chennai-600 003. Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 23(2) of the Railway Claims Tribunal Act of 1987, to set aside the Award Passed by the Railway Claims Tribunal dated 23.01.2013 in O.A.No. 105 of 2008 on the file of the Railway Claims Tribunal Chennai in so far as it restricts payment of interest at 9% only and too that restricting it from the date of the Award and consequently direct the payment of interest on the awarded amount from the date of accident till date of payment at 12% p.a.

For Appellants : M/s.Sai Bharath and Ilan
For Respondents : Mr.S.R. Sundaram

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/applicants against the award dated 23.01.2013 passed in O.A.No.105 of 2008 by the Railway Claims Tribunal, Chennai Bench, in so far as it restricts payment of interest at 9% only and too restricting it from the date of the award and for a consequential direction for payment of interest on the awarded amount from the date of accident till date of payment at the rate of 12% per annum.

2. According to the applicants / appellants, the deceased, along with nephew while boarding into Train No.6177, Rockfort Express, at about 23.30 Hours, at Tambaram Railway Station, in the unreserved compartment, under the open train ticket, bearing No.238779363 from Tambaram to Kumbakonam, on 31.01.2008, due to heavy rush, the deceased was pulled up by other passengers, in which incident, he fell down into the railway track and sustained grievous head injury and his legs and hands were cut and separated and he died on the spot. Even thereafter, he was taken to the Government General Hospital, Chennai, where his death was confirmed as "brought dead". On the death of the deceased, the appellants / applicants, who are the legal representatives of the deceased, laid a claim petition before the Railways Claims Tribunal, Chennai Bench.

3. The respondent / Railway filed reply statement wherein the manner of accident was denied. It was stated in the reply statement that the deceased while attempting to board the running train at Tambaram Railway Station, fell down and succumbed to injuries. The act of the deceased cannot be called as "accidental fall from train" and it can only be described as "self-inflicted injury" and hence, they are not liable to pay any compensation.

4. In order to prove the case of the appellants / applicants, the first appellant/first applicant examined herself as A.W.1 and marked documents from Exs.A1 to A9. On the side of the respondent, no witnesses were examined, but however, a report of the Divisional Railway Manager, Chennai Division, dated 12.02.2009 was filed.

5. The Tribunal, after considering the elaborate oral and documentary evidence, has come to a conclusion that the deceased was a bona fide passenger having purchased the ticket and there was an untoward incident as defined under Section 123 (C) (2) of the Railways Act, 1989, occurred to the deceased and awarded a sum of Rs.4,00,000/- with interest at the rate of 9% per annum from the date of the said order till date of actual payment. Aggrieved over the rate of interest awarded, the appellants / applicants are before this Court.

6. Heard the submissions made on either side and perused the materials available on record.

7. So far as the award is concerned, it has become final as both the parties have accepted the same and the respondent has not chosen to file any appeal. Challenge in this appeal by the claimants is as to restriction of interest to 9%.

8. The Hon'ble Supreme Court in RATHI MENON VS. UNION

OF INDIA [2001 ACJ 721] has held that the collocation of the words "as may be prescribed" in Section 124-A of the Act is to be understood as to mean 'as may be prescribed from time to time'. The Hon'ble Supreme Court has observed that what the legislature wanted was that the victim of the accident must be paid compensation and the amount must represent a reality which means the amount should be fair and reasonable compensation. Therefore, liability to pay compensation is on the Railway to the extent as may be prescribed and it would denote that the disbursement of the compensation shall be at the rate prevailing on the date of final adjudication. Further, it is held that the Railways Administration shall pay the award with interest at 12% per annum from the date of order passed by the Tribunal.

9. In the light of the law laid down by the Hon'ble Supreme Court, the award of compensation will carry interest @ 12% per annum. Accordingly, the Railway is directed to deposit the award of Rs.4,00,000/- with interest at 12% per annum from the date of order passed by the Railway Claims Tribunal i.e. 23.01.2013 till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above observation and direction, this Civil Miscellaneous Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bsm/tk5

To

1. The Railways Claims Tribunal,
Chennai.

+1cc to M/s.Sai Bharath and Ilan, Advocate, S.R.No.73567

+1cc to Mr.S.R. Sundaram , Advocate, S.R.No.73823

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MR(CO)
CS/13/11/2018