

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2018

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.605 of 2016

&

C.M.P.No.5042 of 2016

Union of India
Owning South Central Railway
Rep by its General Manager
Secunderabad - 500 071 ..Petitioner/Appellant/Petitioner

-Vs.-

1.P.Jayalakshmi
W/o.P.Prakash

2.Baby P.Veena
D/o.Late P.Prakash
rep.by mother and
natural guardian R1

3.P.Shankaraiah
D/o.Late Durgaiah

4.Seshamma
W/o.P.Shankaraiah ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal Under Section 23 of Railway Claims Tribunal Act,1987, as against the order dated 06.10.2015 made in O.A.No.226 of 2014 on the file of Railway Claims Tribunal, Chennai Bench.

For Appellant :: Mr.U.Venkatesan

For Respondents :: Mr.R.Sekaran

J U D G M E N T

The present appeal has been preferred by the railway administration against the award passed by the Railway Tribunal awarding a sum of Rs.4,00,000/- to the dependants of one P.Prakash, who accidentally fell down from the moving train on 25.06.2013 while travelling from Ongole to Chennai and subsequently, succumbed to injuries.

2.It is submitted that the deceased was travelling from Ongole to Chennai having purchased a valid ticket from the Railway Station and while the train was nearing Bitragunta Railway station, he fell down accidentally and died. Therefore, the claim petition.

3.Based on the evidence of the Senior Passenger Guard, one K.Sundaram, the Railway Tribunal rightly came to the conclusion that the deceased was travelling in the train and he fell down accidentally and died. The relevant portion of the evidence of Mr.K.Sundaram reads as follows:

"I have seen one male person falling down from coach on platform No.1 of BTTR Railway station while getting inside coach which is 2nd from rear chief guard SLR SR GS 04463 (General). Further I stopped my train."

4.It is evident from the above extract that the deceased Prakash was travelling in train and while the train was nearing Bitragunta Railway station, he accidentally fell down and sustained injuries, which was witnessed by Senior Passenger Guard, one K.Sundaram and on the way to hospital through 108 Ambulance, he died.

5.As far as the question of bonafide traveller is concerned, the only contention raised by Mr.U.Venkatesan, learned counsel for the appellant is that the deceased did not possess any valid railway ticket. However, the Tribunal has rightly observed that the injured was sent to the Hospital through 108 ambulance and injured died in the hospital at Kavali and in the said process, the possibility of misplacing the ticket could not be ruled out. The observation made by the Tribunal is well founded and practical.

6.When a person gets injured, the intention of any human being will be only to save the person by admitting him in hospital and not to search for the ticket. Moreover, the burden of proof that the deceased was travelling without ticket and he is not a bonafide traveller has to be proved only by the railway. In the absence of any evidence, it has to be held that the deceased was a bonafide passenger having a valid ticket.

7.That apart, L.W.1/Friend of the deceased who purchased the ticket for the deceased at Ongole Railway station had also deposed and the same has been recorded in the Mahazar. Furthermore, whenever a traveller starts his journey from a particular station, the Traveling Ticket Examiner would definitely verify the ticket within 10 to 20 minutes and in case, if a person is found to be traveling without a valid ticket, he/she would be fined. In this case, the deceased boarded the train at Ongole Railway station and the incident

happened near Bitragunta railway station, which is 86 kms away from Ongole. Therefore, if the deceased was traveling without a valid ticket, the Traveling Ticket Examiner would have examined the deceased and fined him or handed him over to the railway police.

8. For all the aforesaid reasons, the Tribunal rightly found that the deceased was a bonafide passenger. In view of the same, the finding rendered by the Tribunal that the deceased was a bonafide passenger with valid railway ticket and he died after accidentally falling down from the moving train cannot be set aside and the same is confirmed.

9. Though the Tribunal has granted only a sum of Rs.4,00,000/- as compensation, as per the recent notification dated 22.12.2016, issued by the Ministry of Railways, the amount of compensation awarded to the legal heirs of the deceased has been enhanced to Rs.8,00,000/-. Though the notification has been issued on 22.12.2016 and in the instant case, the accident had occurred only on 28.08.2013, the legal heirs of the deceased are entitled to compensation as per new notification dated 22.12.2016. The enhancement of compensation made by this Court is also supported by the decision of the Hon'ble Apex Court made in the case of Rathi Menon v. Union of India reported in (2001) 3 Supreme Court Cases 714.

10. Therefore, while dismissing the appeal filed by the appellant, the amount of Rs.4,00,000/- along with Rs.50,000/- interest is enhanced to Rs.8,50,000/-. Out of the awarded amount, the 1st respondent, who is the wife of the deceased is entitled to Rs.1,00,000/- with proportionate interest; respondents 3 and 4, who are the parents of the deceased are entitled to Rs.50,000/- each with proportionate interest and 2nd respondent/minor child of the deceased is entitled to Rs.6,00,000/- with proportionate interest.

11. The appellant is directed to deposit the entire amount along with interest and costs, as per the order of this Court, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal shall transfer the respective shares of major claimants, namely, respondents 1, 3 and 4, to their respective bank accounts, within a period of one week thereon. As far as 2nd respondent/minor child is concerned, her share shall be deposited in interest bearing Fixed Deposit in any one of the Nationalised Banks, till she attain majority. The 1st respondent/mother is permitted to withdraw the interest accruing on such deposit once in three months.

12. The Civil Miscellaneous Appeal is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

13.It is seen from the orders passed from the Railway Tribunal that even though the documents have been exhibited and the exhibit numbers have also been given, the list of exhibits have not been given at the end of the order, which causes confusion to this Court. Therefore, the Railway Claims Tribunal is directed to give the list of exhibits marked before the Tribunal by way of separate list at the end of the order, as it has been done by the Civil Courts.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pgp

To

The Vice Chairman(Judicial)
The Railway Claims Tribunal,
Chennai Bench.

Copy to:

The Section Officer,
VR Section,
High Court, Madras(2 copies)

+1cc to Mr.V.Venkatesan, Advocate sr.no.14008
+1cc to Mr.R.Sekaran, Advocate sr.no.14009

vgi(co)
nr 16/05/2018

C.M.A.No.605 of 2016

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