

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.765 of 2016

1. Mrs.P.Boby
 2. Smt.Koteeswari
 3. Smt.Gomathi
 4. P.Palanisamy
 5. P.Parthiban
- .. Appellants

Vs.

Union of India Owning
Southern Railway
rep.by General Manager,
Chennai-600 003.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 54 of 1987 against the order dated 11.01.2016 made in O.A.No.(II-U) 67 of 2015 on the file of the Railway Claims Tribunal, Chennai Bench.

For Appellants : Mr.T.Rajamohan
For Respondent : Ms.T.P.Savitha

JUDGMENT

The claimants who lost their claim in O.A.No.(II-U) 67 of 2015 before the Railway Tribunal have approached this Court in this appeal.

2. The brief facts are that a certain Ponnurangam, while travelling from Katpadi to Coimbatore by train, had fallen down from the train at Bommidi Jalkottai Railway Station in the early hours on 21.05.2014. He was taken to the Government Hospital, Dharmapuri, from where he was shifted to St.John Medical College Hospital, Bangalore on 04.06.2014, but, without responding to the treatment administered on him, he died on 12.06.2014. The cause of his death was identified as septicemia by the doctor who conducted the autopsy.

3. The appellants herein are the legal representatives of the deceased Ponnurangam and they moved the Railway Tribunal in O.A.No.(II-U) 67 of 2015 seeking compensation under Section 124 (A) of the Railways Act, 1989.

4. Resisting the claim, the Railways has contended : a) Ponnurangam was not a bonafide traveller ; and b) That he did not die due to any untoward incident of the kind as defined in Section 123(c) (2) of the Railways Act, 1989.

5. Before the Railway Tribunal, the 5th appellant was examined as AW1 and he has produced nine documents which included the Accident Register as well as post mortem certificate of the victim. The Department relied on the report of the Railway Protection Force and Divisional Railway Manager's report. After appreciating the materials before it, the Railway Tribunal accepted the defence of the Railways and rejected the claim. Aggrieved by the said order of the Tribunal, the applicants before the Tribunal have now come forward with this appeal.

6. For rejecting the claim, the Tribunal has relied on two essential circumstances to arrive at its conclusion:

- a) That no train ticket was recovered from the victim and hence he is not a bonafide traveller.
- b) The medical evidence is to the effect that the death has visited the victim of the accident due to septicemia.

7. The learned counsel for the appellants would submit that: The Tribunal has apparently put logic before life's experience in requiring the recovery of a ticket the victim even after his fall from a running train, wherein after he would have been handled by any number of unidentifiable persons. And, in all such circumstances, preserving a ticket of an injured person would figure least in the list of priorities that human experience may dictate. As to the second reason, admittedly Ponnurangam was continuously under treatment, and he died in the course of his treatment. The fact that he died in the course of the treatment itself is proof enough to establish that the death was the direct result of the injuries suffered.

8. The learned counsel for the respondent strongly contended that septicemia is a condition which is unrelated to the injuries suffered and hence it cannot be termed as a natural consequence of an injuries. As long as the applicants did not establish that the cause of death is directly linked to the injuries suffered in the accident, any intervening cause cannot be led to establish a non-existing connection between the injuries suffered and the death ensued.

9.1 On the point of bonafide traveller, this court is in agreement with the submissions of the counsel for the appellant. This court repeatedly emphasis that life of law is not logic but human experience founded on ordinary course of human affairs. The reasoning that Ponnurangan was not a bonafide traveller is not acceptable as it cannot be based solely on, what his court considers as a weak inference found on the non-recovery of a ticket in an accident-situation.

9.2 This Court perused the Accident Register prepared by the doctor of the Government Hospital, Dharmapuri, and also the post mortem report issued by the Doctor of St.John's Medical College Hospital, Bangalore. The accident register was prepared at 9 a.m., on 21.05.2014, a few hours after the accident. On its face, it does not indicate any major injuries, as the external injury noted are three small aberrations. It was also recorded that the patient was conscious and oriented. The postmortem report, on the other hand, discloses that the victim had suffered few fractures including loss of second metacarpal, contusion in the frontal right and left parietal bone and in the occipital region. The skull, however, was found to be intact.

10. In the absence of any medical evidence pertaining to the impact of the injury on the person, it may not be appropriate for this Court to discard the medical evidence reflected by the postmortem report, which has identified septicemia as the cause of Ponnurangan's death. Therefore, this Court is not able to appreciate the submissions of the learned counsel for the appellants that the cause of death must be necessarily connected to injuries.

11. Having stated thus, this Court also finds that there are at least three fractures and loss of 2nd metacarpal, and as per the schedule of compensation issued vide notification under G.S.R.No.1165(E) by the Ministry of Railways, dated 22.12.2016, that took effect from 01.01.2017, the compensation payable under Section 129 of the Railways Act, 1989, for the loss of thumb and metacarpal bone Rs.3,20,000/- has been awarded. Since no loss of thumb in this case, this Court grants compensation of Rs.2,50,000/- on this head. Rest of the injuries are not scheduled but it does not imply the victim of the accident should be denied compensation under this head. Accordingly, this Court grants Rs.1,50,000/- as compensation towards rest of the injuries not scheduled in the notification as stated above.

12. In the result, this appeal is disposed of. The appellants are entitled to receive Rs.4,00,000/- as compensation. The respondent is directed to deposit Rs.4,00,000/- along with interest @ 6% per annum from the date of petition till the date of deposit before the Tribunal, within a period of two months

from the date of receipt of a copy of this order. The Railway Tribunal is directed to transfer the said sum directly to the account of the appellants through RTGS. On such deposit being made, the 1st appellant, who is the wife of the deceased, would be entitled to Rs.2,00,000/- (Rupees Two Lakhs Only) and the appellants 2, 3, 4 and 5 are entitled to Rs.50,000/- (Rupees Fifty Thousand Only) each. No costs.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

ssn

To:

1. The Railway Claims Tribunal,
Chennai Bench.
 2. The General Manager,
Union of India,
Southern Railways,
Chennai-600 003.
 3. The Section Officer
V.R.Section,
High Court,
Madras.
- +1 CC to Mr.T. Rajamohan, Advocate sr 40453.

C.M.A.No.765 of 2016

SP(20/07/2018)

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