

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No. 235 of 2017

in

C.M.P.No.1555 of 2017

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

Vs.

Mrs.Narayanamma
Residing at H.No.25-15-33
K.V.P.Colony, Guntur Mandal
Guntur - 522 004
A.P. Telungana State. ...Applicant/Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 23 (1) of the Railway Claims Tribunal Act, 1987, challenging the final orders passed in O.A.(II-U) No.273 of 2014 by the Railway Claims Tribunal, Chennai Bench dated 05.11.2015.

For Appellant : Mr.U.Venkatesan

For Respondent : Mr.R.Sekaran

ORDER

The Appeal has been preferred by the Railways against the award of the the Railway Claims Tribunal dated 05.11.2015, by which a sum of Rs.4,00,000/- was awarded as compensation to the legal heir of Chevula Anantha Koteswara Rao aged about 37 years, who died on 10.08.2013, when he was travelling from Krishnarajapuram to Guntur by train No.12864-Yeswantpur-Howrah Express.

2.The respondent being the mother of the deceased, Chevula Anantha Koteswara Rao, filed the petition contending that her son while travelling from Krishnarajapuram to Guntur, as a bonafide passenger, fell down from running train in between SKHT and YLK Railway stations near bridge No.58 km No.52/14-17. The

defence of the appellant before the Tribunal was that the deceased was a ticketless traveller and not a bonafide passenger and the deceased might have fallen down due to his carelessness and negligent act.

3.However, the Tribunal negatived the contentions of the appellant and awarded a sum of Rs.4,00,000/- as compensation to the respondent herein.

4.Heard Mr.U.Venkatesan, learned counsel appearing for the appellant and Mr.Sekaran, learned counsel appearing for the respondent.

5.A perusal of the record would show that the deceased was travelling in Yeswantpur-Howrah Express and he fell down from the running train in between SKHT and YLK Railway stations. The Tribunal, based on the evidence of LW4, namely, Daveed, a co-passenger and co-worker, who travelled along with the deceased, categorically stated that they left Krishnarajapuram of Bangalore on 09.08.2013, took train ticket upto Guntur in the said Express and while on the way, the squad TTE checked the tickets of deceased and LW4 and wrote EFT (Electronic Fund Transfer) from Jolarpet to Guntur for a sum of Rs.385/- and both of them were seated in one compartment and on the way, the deceased had accidentally fallen down from running train in between Srikalahasti and Yeallaru railway stations and he only gave the information about the fall of the deceased to the authorities.

6.The Railway Claims Tribunal rightly came to the conclusion that the deceased was checked by the TTE and he along with LW4 was fined Rs.385/- for ticketless travel and that when excess fare had also been charged, by no stretch of imagination, the deceased could be called as not a bona fide passenger. There is no occasion for the tribunal and this court to come to a conclusion that the deceased was not a bona fide passenger. Even in the inquest report dated 11.08.2013, the aforesaid facts of the collection of Rs.385/- from the deceased from Jolarpet to Guntur was mentioned by the TTE in column No.15.

7.Further, even in the note dated 03.02.2015, the Divisional Railway Manager stated about the collection of Rs.385/- from the deceased from Jolarpet to Guntur. Though the Tribunal found that there was no eye witness to the incident, it is in the evidence of the LW4 that he travelled along with the deceased being a co-worker and the deceased accidentally fell down from the running train and after getting down at Guntur, he informed to the relatives of the deceased. Even before the appellate authorities, the said LW4 was shown as one of the Panchayatdhars. Therefore, it is evident that the deceased had fallen down accidentally from the running train.

8. Further it is proved by the fact that the collection of Rs.385/- vide No.Q 869691, dated 10.08.2013 issued by the TTE would reveal that the fine was collected from the deceased. It has been stated in the receipt itself that TTE checked and wrote EFT from Jolarpet to Guntur for a sum of Rs.385/-. Therefore, the deceased cannot be termed as ticketless passenger and he is only a bona fide passenger. Though the railways raised a plea that the passenger without precaution to safety might have fallen down due to his own carelessness and negligent act, the Hon'ble Supreme Court in Jameela & Others V. Union of India reported in AIR 2010 SC 3705 categorically held that even if a passenger fell down from the train due to his negligence, it would not have any effect on the compensation payable under Section 124-A of Railways Act, 1989.

9. Therefore, even if the deceased had fallen due to his own negligent act, the compensation cannot be denied to the respondent as per the above judgment. Further, the Tribunal rightly noted that there was no oral evidence adduced by the appellant to support the plea of negligent act of the deceased. Therefore, the findings of the tribunal that the deceased was a bona fide traveller has been proved by charging of Rs.385/- as fine by the TTE as evident from the receipt No.Q 0869691 and further, proved by the evidence of LW4 (Daveed) who was a co-passenger and co-worker, who categorically stated that the deceased had accidentally fallen down from the running train.

10. In the absence of rival evidence from the railway, based on the evidence of LW4 namely, Daveed, the Tribunal rightly awarded compensation to the tune of Rs.4,00,000/-. Therefore, the award of the Tribunal has to be confirmed.

11. Though the award has to be confirmed, Ministry of Finance has issued a notification dated 22.12.2016 enhancing the compensation for the death of the traveller from Rs.4,00,000/- to Rs.8,00,000/-. Adopting the said notification the compensation awarded by the Tribunal is enhanced from Rs.4,00,000/- to Rs.8,00,000/-.

12. With the above observation, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

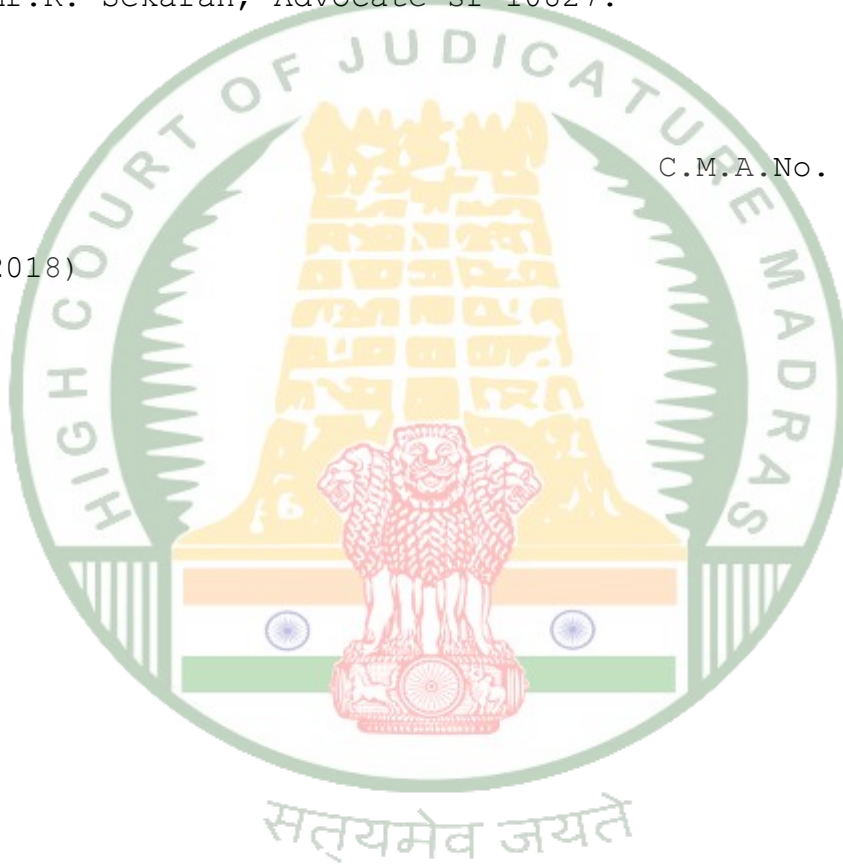
The General Manager
The Union of India
Owning South Central Railway
Secunderabad - 500 071.

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The Section officer
VR Section, High Court, Madras.(2 copies)

+1 CC to Mr.V. Venkatesan, Advocate sr 10826.
+1 CC to Mr.R. Sekaran, Advocate sr 10827.

C.M.A.No. 235 of 2017

SSV(CO)
SP(13/03/2018)



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