

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.622 of 2014

H. Arivukarasan

...Appellant/Applicant

vs.

The Union of India Owning
Southern Railway,
Rep.by its General Manager,
Chennai - 3.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 23 (1) of the Railway Tribunal Act to set aside the order passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) 225/2013 dated 05.02.2014 and allow the appeal.

For Appellant : Mr.S.Parthasarathy

For Respondent : Mr.A.Shrijayanthy

J U D G M E N T

Challenging the award passed by the Railway Claims Tribunal in O.A.(II-U) 225/2013 dated 05.02.2014 the injured claimant has preferred the above appeal.

2. According to the learned counsel for the claimant, the claimant has lost his balance due to sudden jerk and heavy rush and had fallen down from the running train and suffered injuries. Due to fall from train his left hand was amputated and that he has proven himself a bonafide passenger by producing the season ticket. The claim petition was dismissed by the Railway Claims Tribunal on the ground that the accident had taken place due to criminal negligence of the claimant.

3. Perused the records pertaining to the case.

4. Admittedly the claimant, who is a student of Polytechnic College, traveled by train from Thiruppadirippuliyur to Villupuram. On the particular date he traveled by Mannargudi

express and attempted to get down at Thiruppadirippuliyur Railway Station. In that attempt he lost his hand. The Railways came out with oral and documentary evidence that it is the case of criminal negligence. The Station Master of Thiruppadirippuliyur Railway Station let in evidence as RW1 and stated that the claimant had jumped out of the train while the train was running through Thiruppadirippuliyur Railway Station. According to the witness, the Train No.17407 is an express train and it does not stop at Thiruppadirippuliyur Railway Station. Therefore, the claimant who had to get down at Thiruppadirippuliyur had jumped out of the train and the injuries suffered by him were out of sheer criminal negligence.

5. It is well settled that the Railways have to prove the negligence of the victim to deny the award compensation. It is a classic case of criminal negligence. The passenger was holding a valid season ticket between Villupuram to Thiruppadirippuliyur Railway Station and had traveled in an express, train which does not stop at that particular station. In an attempt to alight at that station, he might have jumped out of the train, which is nothing but criminal negligence and prohibited by Rule 156 of the Railways Act. The Tribunal has rightly come to the conclusion that it is the case of criminal negligence and that the claimant is not entitled to any compensation, as it is exempted under Section 124 (a) of Railway Act, 1989. I do not find any infirmity in the order passed by the Tribunal. The claimant has suffered injuries due to the act of criminal negligence in an attempt to jump out of the train. The appeal, on merits, needs no consideration and accordingly the same is dismissed. No costs.

Sd/-
Assistant Registrar (CS-ii)

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सत्यमेव जयते
Sub Assistant Registrar

dpq

To

1. The Railway Claims Tribunal,
Chennai Bench
2. The General Manager,
The Union of India Owning
Southern Railway,
Chennai - 3.

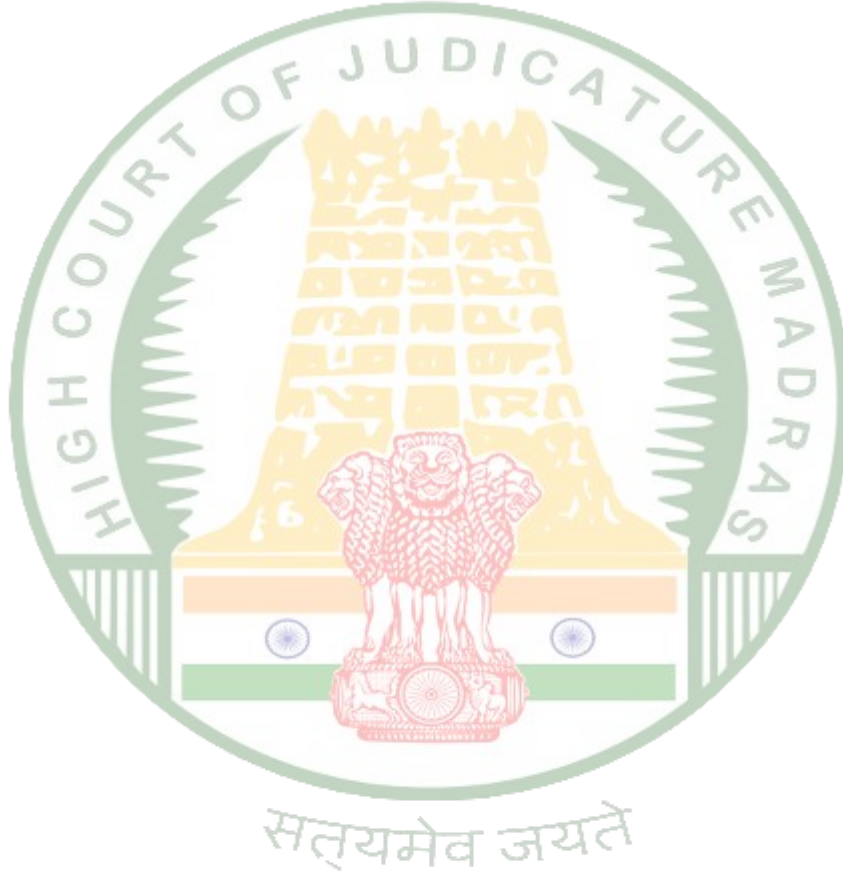
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3. The Section Officer, V.R. Section,
High Court, Madras.(2 copies)

+1cc to Mr.A.SRIJAYANTHI, Advocate, S.R.No.16633
+1cc to Mr.S.PARTHASARATHY, Advocate, S.R.No. 15755

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SVI (CO)
TR(09/05/2018)



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