

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2634 of 2010
and M.P.No.1 of 2010

The Union of India Owning
Southern Railways,
Rep. by its General Manager,
Chennai.

... Appellant

Vs.

1. R.Krishnammal
2. R.Selvaraj
3. R.Suresh
4. The Assistant Registrar,
Railway Claims Tribunal
Chennai Bench
'FRESH FORD'
50, Mc Nichols road,
Chetpet, Chennai 600 031.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act 54 of 1987 against the order dated 12.06.2009 passed in O.A.No.43 of 2008 by the Railway Claims Tribunal, Chennai Bench and set aside the same.

For Appellant : M/s. V.Haribabu

For R1 to R3 : Mr.S.Alex Raj
For A.Shanmugaraj

J U D G M E N T

On the death of one Ramasamy, his wife and sons have laid the claim for compensation before the Railway Claims Tribunal. The Tribunal awarded a sum of Rs.4,00,000/- towards compensation, which is under challenge at the instance of Railways.

2 The case of the claimant is that the deceased travelled from Kerala on 16.03.2005 in Train No.6042. While he was alighting at Pothanur railway station, the train moved suddenly and he slipped and fell down and sustained grievous injury and died at Government hospital, Coimbatore on 13.04.2005.

3 The Railways filed a reply statement denying the contents of the claim petition along with mandatory report of the Divisional Manager.

4 To prove the claim, the first claimant was examined as A.W.1 and Exhibits A1 to A6 were marked. On the side of the respondent, report of the Divisional Railway Manager was marked as Ex.R1 and no

witnesses were examined to lead in evidence as well as regards the report submitted by them.

5 The contention of the Railways is that the claimants have not proved that the deceased had taken ticket and he was a bonafide passenger and therefore, the claimants are not entitled for compensation. The Railway Claims Tribunal relied on the report of the Divisional Railway Manager in which the report of police was incorporated, which reads as under:-

“On investigation, it has been found that the deceased traveled in train from Kerala on 16.03.2005 at about 21.30 hrs and while he was alighting at Podanur Railway station, he slipped and fell down in the railway track and was admitted on the same day for treatment at Coimbatore Government hospital and succumbed to his injuries on 13.04.2005 and there is no doubt in respect of his death and dropped further action in the matter.”

6 The fact that the deceased had travelled in the train on the fateful day and fell down on the railway track, was admitted and thus the incident was proved. The claim petition clearly states that the money purse with money and ticket, the suitcase, cloths and other belongings were

lost in the accident and were not traced out. In the judgment of Andhra Pradesh High Court reported in **2004 ACJ 529 (AP) Union of India Vs. Kurukundu Balakrishnaiah** and Apex Court in **Union of India Vs. Prabhakaran Vijaya Kumar and others** reported in **2008 4 MLJ 323 (SC)**, it has been stated that Section 124-A lays down strict liability and no fault liability in the case of railway accidents and if a case comes within the purview of Section 124-A, it is wholly irrelevant as to who was at fault. Onus is on the Railways to prove that the deceased was not a bonafide passenger.

7 When the money purse with money and ticket, the suitcase, cloths and other belongings of the deceased could not traced by the police, it is presumed that the deceased was a bonafide passenger.

8 Considering all the relevant materials, the Tribunal has come to the conclusion that the accident which had taken place on 16.03.2012 was a untoward incident and the deceased was bonafide passenger and awarded compensation.

9 I do not find any infirmity when the accident is proved by Ex.A1-FIR, A2 - Inquest report, A3 - Final report and by oral evidence of

A.W.1. There is no contra evidence to show that the deceased did not purchase the ticket. The Railways have failed to discharge their onus of proving that the deceased was not a bonafide passenger and in the absence of any proof, findings based on oral and documentary evidence on the side of the claimants have to be accepted.

10 The Railway Claims Tribunal has rightly decided and awarded compensation.

11 With the above observations, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

26.02.2018

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

rpl

WEB COPY

M. GOVINDARAJ, J.

rpl

To

1. The Railway Claims Tribunal,
Chennai Bench.
2. The Assistant Registrar,
Railway Claims Tribunal
Chennai Bench
'FRESH FORD'
50, Mc Nichols road,
Chetpet, Chennai 600 031.



C.M.A.No.2634 of 2010
and M.P.No.1 of 2010

WEB COPY

27.02.2018