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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.46 of 2010
and M.P.1 of 2010

1. R.Renuga Devi
2. Rathish
3. Rajesh
4. Harish
Appellants 2 to 4 being minors
rep.by mother and natural guardian
1st appellant.

...Appellants

vs.

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

... Respondent

Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act to set aside the order passed by the Railway Claims Tribunal Chennai Bench in O.A.No.46 of 2009 dated 09.11.2009 and allow the said petition.

For Appellants : Mr.S.Parthasarathy

For Respondent : Mr.A.Shrijayanthy

J U D G M E N T

Aggrieved over the rejection of the claim petition by the Railway Claims Tribunal, Chennai Bench in O.A.No.2009 00046 dated 09.11.2009 the present appeal has been filed.

2. According to the claimants, the deceased, after receiving the weekly salary from his employer at Wall Tax Road, Chennai, was seen off by his friend at Chennai Central Railway Station and boarded a suburban train as a season ticket holder for going to Pattabiram Hindu College. While the train was running through Basin Bridge Railway Station along Platform No.1 at KM 2/12B-2/14B, he fell down from the train and sustained greivous injury and died on the spot. On the death of her



husband, the wife/1st appellant along with her children laid a claim petition. To prove her case she let in evidence as AW1 and marked Exhibits Exs.A1 to Ex.A6. On the side of the respondents, the report of the Divisional Regional Manager was marked as Ex.R.1 and no witnesses were examined. Considering the oral and documentary evidence, the Tribunal came to a conclusion that the applicant failed to prove that the deceased travelled in the train holding a valid season ticket and therefore, the claim petition was dismissed.

3. Heard both sides.

4. On a perusal of the materials available before this Court, it is seen that the FIR, which is marked as Ex.A1, reveals that the deceased was run over and killed near Basin Bridge book office at Platform No.1. The inquest report, Ex.A2, would reveal that the deceased might have suffered death due to fall from train or while crossing track. The opinion was that the death had occurred due to fall down from train or during tress passing railway track. The final report, which is marked as Ex.A3, also gives the same opinion. There are no eye witnesses to the incident. The evidence of AW1 would go to show that her husband boarded the train at Central Railway Station to go home and accidentally fell down from the running train near Basin Bridge at Platform No.1. Her evidence was not controverted by the respondents during cross examination. Further the railways have not adduced any evidence to prove the manner of the accident that had happened due to negligence of the deceased while tress passing railway line. In the absence of any evidence on the side of the Railways, evidence of AW1 has to be believed. She has given a cogent evidence and has stated that her husband travelled from Chennai Central Station to Pattabiram Hindu College by electric train and that he was a season ticket holder. Since the statement proves the incident, giving benefit of doubt, I hold that the deceased had fallen down from the train and suffered death. In such event it shall be construed as an untoward incident and the claimants are entitled to compensation. The order of the Railway Claims Tribunal dated 09.11.2009 is set aside.

5. Since it is a case of death, as per the Notification of the Ministry of Railways (Railway Board), dated 22.12.2016 the compensation as per Schedule Part I of the Rule (3) Railway Accidents and untoward incidents (compensation) amendment Rules, 2016 is Rs.8,00,000/-. The Railway is directed to deposit a sum of Rs.8,00,000/- with interest @ 6% p.a from the date of order passed by the Tribunal till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this order.



6. With the above directions, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Railway Claims Tribunal
Chennai Bench
2. The Record Keeper, V.R. Section,
High Court, Madras.(2 copies)

+1cc to Mr.S.PARTHASARATHY, Advocate, S.R.No.15754
+1cc to Mr.A.SRIJAYANTHI, Advocate, S.R.No. 16632

C.M.A.No.46 of 2010
and M.P.1 of 2010

MP(CO)
TR(24/04/2018)