

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1076 of 2010

The Union of India owning
Southern Railway rep.by
its General Manager
Chennai 600 003

Appellant / Respondent

-vs-

1. Mrs.M.Uma
2. M.Dhanush
(R2 minor rep.by mother and
natural guardian R1)
3. G.Perumal
4. P.Padmavathi

5. The Assistant Registrar
Railway Claims Tribunal
Chennai Bench
Fresh Ford
50, Mc Nichols Road
Chetpet, Chennai 600 031

Respondents / Applicants

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 23 of the Railway Claims Tribunal Act, against the order
dated 25.6.2009 made in O.A.No.77 of 2008 on the file of the
Railway Claims Tribunal, Chennai Bench.

For Appellant सत्यमेव जयते :: Mr.M.T.Arunan
Standing Counsel
assisted by
M/s M.A.Aruneshe
S.Malar Selvi
P.Sobana Devi

For Respondents :: Mr.S.Parthasarathy for R1 to 4
R5-Tribunal

JUDGMENT

Southern Railway represented by its General Manager, Chennai
has come up in appeal before this Court, questioning the

correctness of the impugned order dated 25.6.2009 passed by the Railway Claims Tribunal, Chennai Bench, in and by which the appellant was directed to pay to the four dependants of late P.Murthi @ Yagamurthi, namely, M.Uma (wife), M.Dhanush (minor son), G.Perumal (father) and Mrs.P.Padmavathy (mother), a sum of Rs.4,00,000/- within two months from the date of the order, failing which the respondents/claimants would be entitled to interest at the rate of 9% per annum, on the ground that the Tribunal ignored the significance of the contention of the Presenting Officer of the Railway that the season ticket possessed by the deceased was not signed by him, which makes the same invalid, resultantly, the deceased was not a bona fide passenger and also on the ground that his death cannot be termed as an accidental fall by any stretch of imagination, therefore, the claim was not sustainable under Section 124(A) of the Railways Act.

2. Mr.M.T.Arunan, learned counsel for the appellant, referring to the finding given by the Tribunal that the deceased being a bona fide passenger having valid ticket died in the accident on 24.3.2008 due to an untoward incident of fall from the train, argued that when the question of bona fide passenger could be reached only on the basis of the ticket issued by the Railways, when it has been proved time and again before the Tribunal that the season ticket found with the deceased was not even signed by the passenger, the Tribunal ought to have reached a conclusion that it was not a valid ticket, therefore, the deceased was not a bona fide passenger.

3. But this Court is unable to accept such an unreasonable argument, for the following reasons. It is the admitted case of both parties that the deceased, while travelling in a EMU train on 24.3.2008 from Tambaram railway station, had accidentally fallen down from the moving train between Chrompet and Pallavaram railway stations and sustained grievous head injuries and died. The Government Railway Police, Tambaram had also registered a case in Crime No.233 of 2008 under Section 174 Cr.P.C. The inquest report of the police also clearly supported the claimants case that the deceased while travelling in the EMU train, due to heavy crowd, had accidentally fallen down and died at the Government General Hospital, Chennai without responding to the treatment. Therefore, when the First Information Report marked as Ex.A1, copy of inquest report marked as Ex.A2, post-mortem certificate marked as Ex.A4, death certificate marked as Ex.A6 jointly and without giving any benefit of doubt, uniformly indicated that the deceased P.Murthi @ Yagamurthi, while actually travelling in a EMU train on 25.3.2008 from Tambaram railway station, accidentally fell down from the running train between Chrompet and Pallavaram railway stations and sustained grievous injuries and died on the spot, the question of doubting

his death, who was a bona fide passenger, on the ground that he has not signed the season ticket which was in his possession, cannot be accepted. Therefore, the civil miscellaneous appeal fails and it is dismissed. The appellant is directed to deposit the balance sum of Rs.4,00,000/- from the date of the Tribunal's order along with interest at the rate of 9% per annum within a period of four weeks from the date of receipt of a copy of this order. As it stated by the learned counsel for the respondents that the father of the deceased named G.Perumal died on 4.4.2015 during the pendency of the appeal, on the deposit of the balance amount, the mother, wife and minor son of the deceased are entitled to withdraw and share the same equally. Consequently, M.P.No.1 of 2010 is closed. No costs.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Assistant Registrar
Railway Claims Tribunal
Chennai Bench
Fresh Ford
50, Mc Nichols Road
Chetpet
Chennai 600 031

2. The General Manager
Southern Railway
Chennai 600 003

+2 ccs to Mr.M.T.Arunan, Advocate, S.R.No.55383

+1 cc to Mr.S.Parthasarathy, Advocate, S.R.No.55221

LN(CO)
SSM(19/08/2019)

C.M.A.No.1076 of 2010

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