

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CMA.No.1431 of 2016

Malarkodi

... Appellant/Applicant

Vs.

The Union of India Owning,
Southern Railway,
rep.by its General Manager,
Chennai - 600 003.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under section 23 of Railways Claims Tribunal Act, to set aside the judgment dated 02.06.2016 and made in O.A.(II-U) 142/2015 on the file of the Railway Tribunal, Chennai Bench.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.C.V.Ramachandra Murthy

O R D E R

This Civil Miscellaneous Appeal is filed to set aside the judgment dated 02.06.2016 made in O.A.(II-U) 142/2015 on the file of the Railway Claims Tribunal, Chennai Bench.

2. Claimant is the appellant before this Court. The appellant filed a claim petition before the Railway Claims Tribunal, Chennai for the death of her son and the accident took place on 11.07.2014.

3. On considering the materials placed before it, the Railway Claims Tribunal came to the conclusion that it is a case of train accident and not of untoward incident.

4. Aggrieved over the same, the appellant is before this Court. In support of the claim, the claimant/appellant relies on the FIR, inquest report and the final report filed by the Railway Protection Force and also the Divisional Railway

Manager. A perusal of these documents would show that the deceased was hit by the train by crossing the track. The Panchanama was recorded in the presence of witnesses and it also shows that it is the case of accidental death due to hit and run over on the railway track.

5. It is a well settled principle that the claimant is entitled to compensation in the event of an untoward incident and he establishes that the deceased was a bonafide passenger. Accordingly, in the instant case, the appellant/claimant has failed to prove that the deceased was a bonafide passenger died in an untoward incident.

6. On the other hand, the documents goes to show that it is the case of accidental death and it happened when the deceased attempted to cross the railway track negligently. The Railway Claims Tribunal has rightly come to the conclusion that it was not an untoward incident and the accident has occurred due to the negligence of the deceased. In such circumstances, compensation cannot be granted. I do not find any infirmity in the order passed by Railway Claims Tribunal.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Railway Claims Tribunal,
Chennai Bench.

सत्यमेव जयते

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CSL/10.05.2019

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