

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CMA NO.49 OF 2018

1.Palaniselvi

2.Bala Praveen

(Minor Rep. by mother and
natural guardian A1)

...Appellants/Applicants

Vs.

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

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 23 of the Railways Claims Tribunal Act, 1987, against the judgment dated 15.03.2016 passed in O.A.(II-U) 76 of 2015 on the file of Railway Claims Tribunal, Chennai Bench, Chennai.

For Appellants : Ms.Selvi Rajesh

For Respondent : Ms.T.P.Savitha

J U D G M E N T

Aggrieved over the order dated 15.03.2016 passed by the Railway Claims Tribunal in O.A.(II-U) 76 of 2015, the claimants are before this Court.

2. According to the appellants/claimants, the deceased was working as a Driver at Erode and he came down to Ramanathapuram to see them. He informed the first appellant / wife that he reached Paramakudi Railway Station by bus and he boarded a train from Paramakudi to Ramanathapuram. He slept and got down at Valandharavai Railway Station instead of Ramanathapuram Railway Station. While he tried to board Sethu Express Train, he fell down from the train due to heavy crowd and jerk and suffered death. For the untoward incident, the appellants / claimants have laid a claim petition. The Railway Claims Tribunal, on finding that the incident is not an untoward

incident, and it is a self inflicted injury out of criminal negligence, held that the Claimants are not entitled to compensation. Aggrieved over the same, the appellants are before this Court.

3. Heard the submissions made on either side and perused the materials available on record.

4. Admittedly, the deceased had travelled between Paramakudi and Ramanathapuram with a valid ticket. The ticket was marked as Ex.A1. It is also an admitted case of the claimants that the deceased slept and got down at Valandharavai Railway Station, which is beyond the destination. Thereafter, he attempted to board a train, which does not stop at Valandharavai Railway Station. The Tribunal has found that the deceased attempted to board train no.16714 Sethu Express at Valandharavai, which does not stop at that station and therefore, the claimants are not entitled for compensation and dismissed the claim petition.

5. The learned counsel for the appellants would vehemently contend that there is no evidence to show that the deceased attempted to board Sethu Express Train, which has no stoppage. The Tribunal has relied on a document, which was not marked before it, in accordance with law. Therefore, the judgment of the Tribunal is without any legal evidence and therefore, liable to be set aside.

6. Be that as it may, it is an admitted case that the claimants have not stated anything about purchasing tickets from Valandharavai to Ramanathapuram Station. During inquest, Police should have recovered a train ticket for travel between Paramakudi and Ramanathapuram. But there was no ticket for the travel between Valandharavai and Ramanathapuram. In that case, it is presumed that the deceased had not taken any ticket for his travel between Valandharavai and Ramanathapuram. Even assuming that he attempted to board a train, which has stoppage at Valandharavai, he cannot be construed as a bonafide passenger, as no ticket was found in his purse for that particular travel. In that event, the deceased cannot be construed as a bonafide passenger. It is also not denied by the appellants that he has not attempted to board the Sethu Express Train, which has no stoppage at Valandharavai Railway Station. In such circumstances, the report of the DRM even filed beyond the mandatory period prescribed under the Rules, has to be looked into, for collateral purposes. However, I do not rely on the same on the point of bonafide passenger. Admittedly, the appellants / claimants have not discharged their initial onus for having taken ticket for travel between Valandharavai and Ramanathapuram. In such circumstances, the claimants are not entitled to any compensation.

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

TK

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

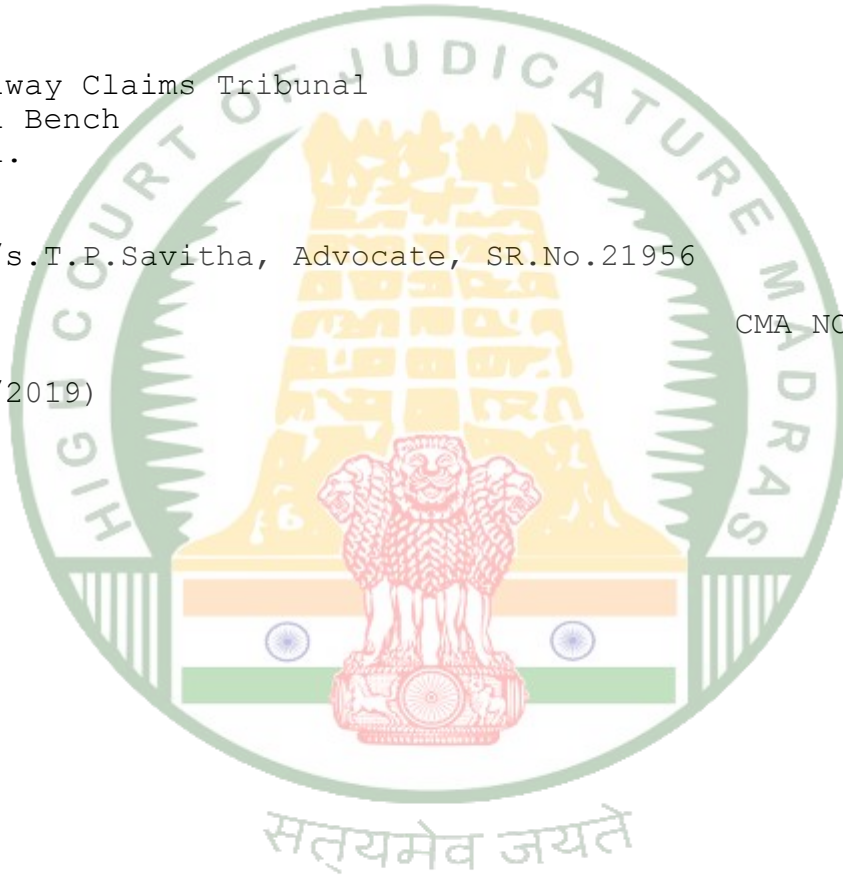
To

1.The Railway Claims Tribunal
Chennai Bench
Chennai.

+1cc to M/s.T.P.Savitha, Advocate, SR.No.21956

CMA NO.49 OF 2018

Kak(17/07/2019)



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