

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.2452 OF 2017

1.T.N.Chandrakala

2.T.N.Praveen Chand

3.T.N.Eshwar ChandAppellant

Vs.

The Union of India Owning
Southern Railway,
rep.by its General Manager,
Chennai - 600003. Respondent

PRAYER: Civil Miscellaneous Appeal under Section 23 of Railway Claims Tribunal Act praying to set aside the judgment dated 28.01.2016 and made in O.A.(II-U) 355/2014 on the file of the Railway Tribunal, Chennai Bench.

For appellant : Mr.M.Selvam
For respondent : Mr.C.V.Ramachandramurthy

J U D G M E N T

This appeal is filed to set aside the judgment and made in O.A.(II-U) 355/2014 on the file of the Railway Tribunal, Chennai Bench dated 28.01.2016.

2. The claimants are the appellants before this Court. The Railway Claims Tribunal rejected the claim for compensation on the grounds of the statement given by the Police constable that the death of the husband of the first appellant was due to suicide.

3. Heard the appellant.

4. On perusal of the records, even though the appellants / claimants filed a claim application and annexed certificate, documents, they have not chosen to appear before the Tribunal to

let in evidence to prove their case. Thereafter, the claimant's side evidence was closed and the appellants / claimants filed an application to reopen the case. However, it was dismissed by the Railway Claims Tribunal. The appellants / claimants have not chosen to file any appeal against that order to continue the case.

5. It is well settled that to make a claim of compensation, the initial onus is on the claimants to prove that the victim travelled in the train and as a bonafide passenger. Secondly, they have to prove that the deceased suffered death due to an untoward incident. In the instant case, the claimants have not discharged the initial onus on the above aspects. On the other hand, the facts and circumstances of the case run contrary to their claim.

6. It is the statement of the wife of the claimant that the deceased went to Villivakam Railway Station on an invitation made by his friend. There is no averment as to the intention of the deceased or any information with regard to travel to any place by train. In that event, this Court is of the considered opinion that the appellants have not discharged the initial onus and there are no materials to prove that the deceased travelled in the train or about to travel in the train after taking valid ticket for the same.

7. In the absence of any material to prove travel and thereby an untoward incident happened, the claimants are not entitled to any compensation. Even though the tribunal has rejected the claim on untenable grounds, I do not find any merits in the claim petition. Accordingly, the civil miscellaneous appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Railway Claims Tribunal
Chennai Bench

copy to

The Section Officer

VR Section High Court Madras

+1 cc to Mr.M.Selvam Advocate sr 22155
+1 cc to Mr.C.V.Ramachandramurthy Advocate sr22567

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