

C.M.P.No.16162 of 2017 in C.M.A.No.SR71595 of 2017

T.RAJA, J.

When this civil miscellaneous petition seeking to condone the delay of 66 days in filing the appeal against the order dated 5.4.2017 passed by the Railway Claims Tribunal, Chennai was taken up for hearing, the learned standing counsel for the respondent sought time to take instructions and also to file counter affidavit.

2. On the other hand, the learned counsel for the petitioners submitted that when the husband of the first petitioner was travelling in a EMU train while going to work from Ponneri to Sularpetta on 15.7.2013, at about 11.30 AM, he fell down from the moving train due to overcrowding and heavy jerk between Gummidipoondi railway station and Elavur railway station at KM 49/18-20 down line and sustained severe injuries on the rear side of his head and due to the said injuries, the entire body got smashed and he died on the spot. Therefore, his legal heirs filed O.A.No.89 of 2016 before the Railway Claims Tribunal claiming a compensation of Rs.4,00,000/- with interest at the rate of 12% per annum. But the Tribunal disallowed the claim holding that he was not a bona fide passenger. As there are various judgments passed by this Court holding that if a passenger falls down from the train and consequently died, he has to be construed as a bona fide passenger in the absence of ticket found in his

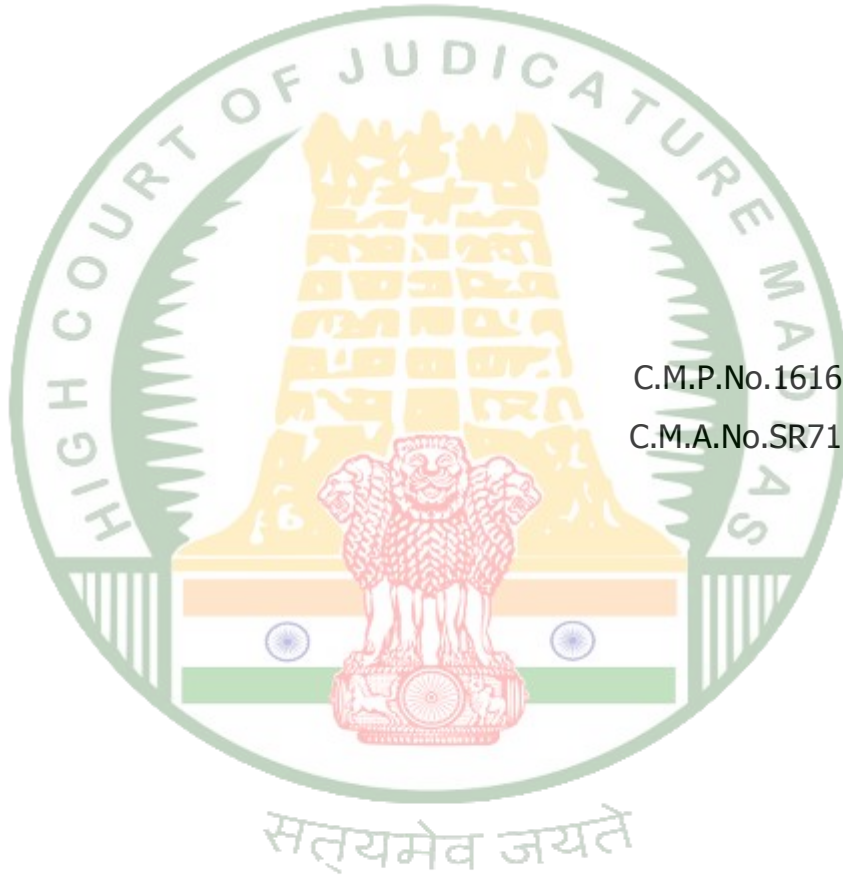
possession. Therefore, if the delay of 66 days, which was caused due to ignorance and abject poverty suffered by the petitioners, is condoned and the appeal is taken up for hearing on merits, no prejudice would be caused to any one.

3. Finding that the petitioners/claimants are in abject poverty and due to ignorance only they could not file the appeal in time, this Court, taking note of the short delay, overruling the objection raised by the learned standing counsel for the Southern Railway, is inclined to allow the petition. Accordingly, the short delay is condoned and the civil miscellaneous petition stands allowed.

16.07.2019

SS

सत्यमेव जयते
WEB COPY



C.M.P.No.16162 of 2017 in
C.M.A.No.SR71595 of 2017

WEB COPY

16.07.2019