

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.10.2020
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
C.M.A.No.3491 of 2019

1.Mr.C.Baskar
(father of the deceased)
2.Mrs.B.Vanitha
(mother of the deceased) .. Appellants

Versus

Union of India,
Owning Southern Railways,
Rep. By its General Manager,
Chennai - 3. .. Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 23 of the Railways Claims Tribunal Act, praying to set aside the order dated 05.08.2019, passed in O.A.(II-U) No.189 of 2018 by the Railway Claims Tribunal, Chennai Bench.

For Appellants : Mr.R.Sekaran
For Respondent : Mr.M.Vijay Anand

JUDGMENT

Heard Mr.R.Sekaran, learned counsel for the claimants/appellants herein, and Mr.M.Vijay Anand, learned standing counsel for the respondent/Southern Railway, through Video Conferencing, due to COVID-19 pandemic.

2. The claimants/appellants herein are the father and mother of the deceased/B.Priyadharshini. They have filed this Civil Miscellaneous Appeal challenging the impugned order passed by the learned Railway Claims Tribunal, Chennai Bench, in OA(II-U) No.189/2018, dated 05.08.2019, in and by which, learned Tribunal has declined to grant compensation holding that the deceased was not a bonafide passenger.

3. It is submitted by the learned counsel for the claimants/appellants herein that the deceased was a resident of Kallikuppam in Ambattur, Chennai, and she being a College student used to travel in Electric Multiple Unit (EMU) train between Nemilichery and Ambattur Railway Stations. On 21.07.2018 prior to 17.45 hrs., while she was undertaking a travel from Nemilichery to Perambur Loco Works Railway Station by purchasing II class tick, due to over crowd, speed and jerk of the train, she accidentally fell down from the running train

between Nemilichery and Pattabiram and died on the spot. However, the 2nd Class ticket purchased by her said to have been lost while the body was transmitted for postmortem. On receiving the information, Sub-Inspector of Railway Police Station, Avadi, rushed to the spot and registered an First Information Report (FIR) in Crime No.112 for offence under Section 174 of the Criminal Procedure Code, 1973. Subsequently, Inquest Report was also submitted on 21.07.2016. Therefore, based on the FIR dated 21.07.2018, Inquest Report dated 21.07.2018, death certificate and legal heir certificate, the claimants/appellant herein have laid a claim seeking compensation to the tune of Rs.8,00,000/- for the death of her daughter. But, the learned Tribunal, disagreeing with the claim made by the appellants herein, has wrongly dismissed the claim petition holding that the deceased was not a bonafide person.

4. Learned counsel for the appellants further argued that it is settled proposition that if a passenger died due to fall from the running train, it is not possible to trace out the ticket from the dead body, as the ticket purchased by him/her could have been lost while he/she was dragged from one place to another place. Therefore, the impugned order passed by the learned Tribunal holding that the deceased was not a bonafide passenger as she was not in possession of a ticket is unsustainable and on this score, he has prayed for allowing the claim petition filed by the claimants.

5. But, this Court is unable to find any merit on the above said submissions of the appellants. It is stated by the appellants that on 21.07.2018, while the deceased was travelling in EMU train between Nemilichery and Ambattur, she accidentally fell down from the running train due to speed and jerk of the train. If the said statement is true, then the co-passenger would have noticed this incident and would have pulled the alarm chain and stopped the train. But, there was no such evidence found on record. Moreover, the site of the incident was near to the College and therefore, it is not a case of falling down from the running train.

6. This apart, the Post Commander, Railway Protection Force, Avadi, after examination the oral and documentary evidence placed before him, filed his report dated 13.03.2019 holding that the deceased was not a bonafide passenger and the incident did not happen due to untoward incident as claimed by the claimants as there was no documentary evidence filed by them to establish that the deceased had fallen down from the running train. As against this report, the claimants have not adduced any oral or document evidence to show that the deceased was a bonafide passenger.

7. Further, one Mr.Senthil Kumar, Motorman of EMU train No.43235, deposed before the police during the investigation that while the train was running, he noticed a female body lying between up and slow line at KM 25/16-18. One Mr.Gurumurthy, Sub-Inspector of Police, Railway Protection Force, Avadi, submitted inquest report dated 21.07.2018 stating that the deceased body was found lying with number of articles including a gold chain and dollar, but, there was no travel authority or a valid ticket found for her travel. Therefore, in my considered view, had the deceased purchased the ticket, then definitely it would have been found along with other articles recovered from the deceased. But, there is nothing on record to depict that she was possessing any valid authority or train ticket for undertaking a travel on the said fateful day.

8. Thus, for the reasons stated above, this Court does not find any perversity or illegality in the order passed by the learned Tribunal. Accordingly, the Civil Miscellaneous Appeal fails and it is dismissed. No Costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To
The Registrar,
Railway Claims Tribunal,
Chennai Bench.

+1 cc to Mr.N.Vijay Anand Advocate sr33377

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