

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1077 of 2015

1.M.Lajaru

2.M.Dayamma

... Appellants

vs.

Union of India owning
South Central Railway,
rep.by its General Manager,
Secundrabad.

.... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act 54 of 1987, against the order dated 24.03.2015 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U)No.150 of 2014.

For Appellants : Mr.T.Rajamohan

For Respondent: Mr.U.Venkatesan

O R D E R

The appeal is preferred against the judgment of the Railway Claims Tribunal dated 24.03.2015 passed in O.A.(II-U) No.150 of 2014.

2. The facts as stated are that "on 13.06.13, in order to go to Vijayawada for search of cooli job, the deceased had left his house. The deceased used to travel by train by purchasing II class ticket to various places for cooli jobs. The applicants came to know from the Ongole Railway Police that the deceased while traveling in a train, prior to 08.30 hrs of 13.06.13, near Tanguttur Railway Station, due to over crowd in the compartment, jerk and jolt of the train, accidentally fell down from the running train, suffered (1) head crushed, 2) right shoulder fractured and (3) bleeding injury on right side of waist and right knee and died at the place of occurrence. It was an untoward incident. The II class ticket purchased by the deceased for his travel from Tanguttur to Vijayawada was said to have

been lost at the time accident and the same could not be traced by railway police”.

3. The Railway Claims Tribunal rejected the claim of the appellants solely on the ground that the deceased did not hold a valid travel ticket and any such travel ticket was not retrieved during the investigation by the Police or by the Railway Authority. The Apex Court held that if the valid travel ticket was unable to be retrieved from the place of occurrence and the accident occurred within the premises of the Railway, then the Railway has to establish that the deceased was not a bona fide passenger. The Apex Court in its unambiguous terms held that mere loss of railway ticket or non-retrievable of travel ticket is not a ground to decline the compensation to the claimants. Keeping the principles laid down by the Apex Court in mind, the facts as established in the present case is to be considered for deciding the appeal on hand. The F.I.R was registered and the nature of injuries were also recorded. The Inquest Report/Ex.A2 also reveals that the accident occurred due to the fact that the deceased had fallen down from the running train. The final report/Ex.A4 states that the accident occurred due to falling down of the deceased from the running train. The Death Certificate is also enclosed. The Divisional Railway Manager report also reveals that the journey ticket was not available. Therefore, the burden must be shifted on the Railways to establish that the deceased was not a bona fide passenger. When the factum regarding the death was established and further the death occurred due to the accident happened nearby the railway track and the injuries are also found, then the Railways have to establish that whether the deceased was a bona fide passenger or not. Contrarily, the burden cannot be shifted on the claimants, who filed an application. Many probabilities cannot be ruled out. The tickets would have lost while falling down or taking the person to the hospital or while conducting post-mortem or otherwise. When all these probabilities are available, the Courts are adopted such pragmatic approach so as to ensure the benefit of welfare legislation is extended to the claimants. Thus, mere non-availability of a ticket or non-retrievable of the ticket by the Investigation Authority could not be a ground to decline the compensation to the claimants, for which, otherwise they are entitled.

4. This being the factum established, this Court is of the opinion that the Railway Claims Tribunal has committed an error in stating that the non-availability of a ticket from the deceased is a ground to reject the application. Now, the said principle has already been settled and therefore, this Court is inclined to consider the grounds raised in the present appeal. The appellants could able to establish from the F.I.R/Inquest

report and final report filed by the respondent that the deceased died due to the train accident and the grievous injuries sustained was the cause for the death. This being the factum established, the judgment of the Railway Claims Tribunal dated 24.03.2015 passed in O.A.(II-U)No.150 of 2014 is set aside and the Civil Miscellaneous Appeal stands allowed. The appellants being the father and mother of the deceased, they are entitled to get compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only) as amended with effect from 01.01.2017 and the said amount of Rs.8,00,000/- (Rupees Eight Lakhs Only) is to be shared between the two appellants equally. The respondent/Railway is directed to deposit the award amount along with accrued interest at the rate of 6% per annum from the date of award within a period of twelve weeks from the date of receipt of a copy of this order and on such deposit, the appellants are permitted to withdraw the amount by filing an appropriate application and the payments are to be made through RTGS. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssb

To

The Railway Claims Tribunal,
Chennai Bench.

+1cc to M/s.T.Rajamohan, Advocate Sr.8902
+1cc to M/s.U.Venkatesan, Advocate Sr.8637

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