



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. NO. 3181 OF 2009

Union of India owning
Southern Railway,
Represented by
its General Manager,
Chennai - 600 003.

... Appellant

Vs

1. Kulandaivel Nadar.
2. Kamalammal

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, to set aside the order of the Railway Claims Tribunal, Chennai Bench, dated 02.07.2003 made in O.A. No. 2001 00053 of 2001.

For Appellant : Mr.M.T.Arunan

For Respondent 2 : Mr.T.Rajamohan

R1 : Died

JUDGMENT

This appeal has been filed by the Union of India, Chennai, challenging the order dated 02.07.2003 passed by the Railway Claims Tribunal, Chennai Bench in O.A. No. 53 of 2001 under Section 16 of the Railways Claims Tribunal Act, 1987.

2. Under the impugned order, the Appellant has been directed to pay a compensation of Rs. 2,00,000/- (Rupees Two Lakhs only) to each of the respondents/claimants for the death of their son, K. Gnanaraj, who died in an untoward incident that took place on 11.08.2001 while he was travelling in a Train No.6010 and due to a fall from the said train at Tiruvellore Railway Station in Platform No.4 at 22.45 hours, he sustained injuries and thereafter, due to the said injuries, he died at the Government General Hospital, Chennai on 14.08.2001.



3. The respondents/claimants made a claim before the Railways Claims Tribunal, Chennai Bench in O.A. No. 53 of 2001 seeking compensation and under the impugned award, the aforesaid compensation was directed to be paid by the Appellant to the respondents who are the parents of the deceased.

4. According to the Appellant, the Tribunal erred in allowing the application filed by the respondents as according to them, since the deceased attempted to get down from a moving train which resulted in the accident, they are not liable to pay any compensation. It is their contention that only due to the fault of the deceased, the accident had happened and therefore they are not liable to pay any compensation.

5. The learned counsel for the Appellant drew the attention of this Court to the various exhibits filed along with the claim application and also drew the attention of this Court to the reply filed by the Appellant before the Railways Claims Tribunal and would submit that the accident happened only due to the fault of the deceased. Further it is his contention that the ticket purchased by the deceased for travelling in the train was not produced by the respondents/claimants before the Tribunal and therefore they have not discharged their initial burden of proving their claim.

6. However, the learned counsel for the respondents after drawing attention of this Court to the impugned order would submit that the Appellant in the reply statement have admitted that the deceased had infact travelled in the train on the date of the accident and therefore, the respondents have discharged their initial burden of proving their claim.

7. The learned counsel for the respondents also drew the attention of the Court to the various authorities relied upon by the respondents/claimants before the Tribunal which is reflected in the impugned order and would submit that the respondents/claimants have discharged their initial burden. He also drew the attention of this Court to the deposition of an eye-witness to the incident. According to him, as seen from his deposition, the eye witness who was also travelling along with the deceased has categorically confirmed that the deceased fell down from the train on the date of the incident which resulted in him sustaining grievous injuries. The inquest report was also relied upon by the learned counsel for the respondents which indicates that the deceased died only due to the fall from the train on the date of the incident.

8. This Court has perused and examined the impugned order. As rightly contended by the learned counsel for the respondents, the respondents have discharged their initial burden of proving that the deceased was infact travelling in the



Train No.6010 on 11.08.2001. In the reply statement also, the Appellant has admitted that the deceased was travelling in the train bearing No. 6010 on 11.08.2001 and he fall down from the train at Tiruvellore Railway Station. However, it is their contention that the entire fault was on the part of the deceased as he attempted to get down from a moving train. No contra evidence has been produced by the Appellant to prove that the deceased was getting down from the moving train. When there is no contra evidence in support of the Appellant's contention, this Court is of the considered view that the Tribunal has rightly rejected the said contention under the impugned order. The respondents/claimants having discharged their initial burden of proving that the deceased was infact travelling in the train on the date of the incident and it was an accidental fall, the Tribunal has rightly rejected the contention of the Appellant under the impugned order.

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. No costs.

10. It is informed by the learned counsel for the respondents that during the pendency of this appeal, the first respondent who is the father of the deceased, died on 21.09.2010 and the death certificate has also been produced before this Court. It is recorded. Since the second respondent who is the mother of the deceased is the only surviving legal heir, she is permitted to withdraw the entire award amount as determined under the impugned order.

11. The Appellant is directed to deposit the compensation amount of Rs.4,00,000/- as determined under the impugned order together with interest from the date of clam till the date of deposit and costs, after deducting the amount already deposited if any, to the credit of O.A.No.53 of 2001 on the file of the Railways Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the second respondent is directed to withdraw the amount lying to the credit of O.A.No.53 of 2001 on the file of the Railways Claims Tribunal, Chennai by filing an appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

rgi/nl



To

1. The Railway Claims Tribunal,
Chennai Bench

2. The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to M/s.M.T.Arunan, Advocate, S.R.No.53819

+2ccs to M/s.T.Rajamohan, Advocate, S.R.No.54206

C.M.A. No. 3181 of 2009

KSM(CO)
RLP(01/11/2021)