

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

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**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM**

C.M.A.No.121 of 2015

and

M.P.No.1 of 2015

Union of India,  
Owning South Central Railway,  
Rep.by its General Manager,  
Chennai.

..Appellant

Vs.

S.Chinnaponnu

..Respondent

**Prayer :** Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 1987 praying to set aside the order made in O.A.(II-U) No.362 of 2013 on the file of the Railway Claims Tribunal, Chennai Bench dated 14.10.2014.

For Appellant : Mr.M.Vijay Anand

For Respondent : Mr.T.Raja Mohan

JUDGMENT

The Award dated 14.10.2014 passed in O.A.(II-U) No.362 of 2013 is under challenge in the present Civil Miscellaneous Appeal.

2.The Union of India owning Southern Railway is the appellant. The respondent/claimant filed an application seeking compensation due to the death of her mother. The untoward incident occurred on 05.10.2012, the deceased purchased second class ticket and traveled from Budalur to Tanjore. The claimant came to know from the police authorities that while alighting from the train at Tanjore Railway Station, due to rush and pushing of the passengers her mother accidentally fell down, suffered grievous injuries and thereafter, she was shifted to Government Hospital, Tanjore in 108 ambulance and died. FIR was registered by Tanjore Railway Police in Crime No.281 of 2012 on 05.10.2012. The inquest was conducted by the Sub-Inspector of Police, Tanjore. The panchayatars have unanimously held that the deceased had died due to the injuries suffered in the accidental fall from the train. The final report filed by the Sub-Inspector of Police, Railway Police Station, Tanjore, reveals that the accident occurred and the deceased fell down from the train and sustained grievous injuries and shifted to Government Hospital through 108 ambulance and thereafter died. It was stated as accidental death.

3.The Railway Claims Tribunal adjudicated the issues. The findings of the Railway Claims Tribunal, reads as under:

*“The vital documents in this case are the rough journal Ex.R.1 and the message from the Station Master / Thanjavur as per Ex.A.4. In both these documents, it is made very clear that she has tried to detrain from train No.76805 passenger at Tanjore Railway Station while the train was moving and has fallen down and sustained injury on her leg resulting in her death at the hospital.”*

4.The Railway Claims Tribunal rightly shifted the burden of proof on the side of the railways to establish that the deceased was not a bonafide passenger. When prima-facie is established by the claimant that the deceased died in a train accident and more specifically, she fell down from the train and sustained a fatal injuries as well as the final report also reveals that it is an accidental death, then the non-availability of travel ticket cannot be a ground to decline compensation to the claimants. In such circumstances, the burden of proof is to be shifted on the railways to establish that the victim was not a bonafide passenger.

5.In the present case, the appellant / railways would not able to establish that the deceased was not a bonafide purchaser and under those circumstances, the Tribunal granted compensation to the claimant.

6.This being the findings of the Tribunal, this Court do not find any perversity or infirmity as such. The learned counsel for the appellant would not be able to establish that the deceased was not a bonafide passenger. Under these circumstances, the Award dated 14.10.2014 passed in O.A.(II-U).No.362 of 2013 stands confirmed. Consequently, C.M.A.No.121 of 2015 stands dismissed. No costs. Connected miscellaneous petition is closed.

7. In view of the facts and circumstances, the respondent / claimant is entitled for a compensation of Rs.8,00,000/-(Rupees Eight Lakhs only) along with the interest at the rate of 6% per annum from the date of passing of the award. It is contended that the appellant/Railway has already deposited the award amount. If the award amount with accrued interest is lesser than that of a sum of Rs.8,00,000/- as per the amended ceiling with effect from 01.01.2017, the appellant is directed to

deposit the balance amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of this award. However, if the deposited amount with accrued interest exceeds the sum of Rs.8,00,000/-, then the appellant is permitted to withdraw such balance amount by filing an appropriate application. The respondent/claimant are permitted to withdraw the award amount of Rs.8,00,000/-(Rupees Eight Lakhs only) along with the interest at the rate of 6% from the date of award.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non speaking order

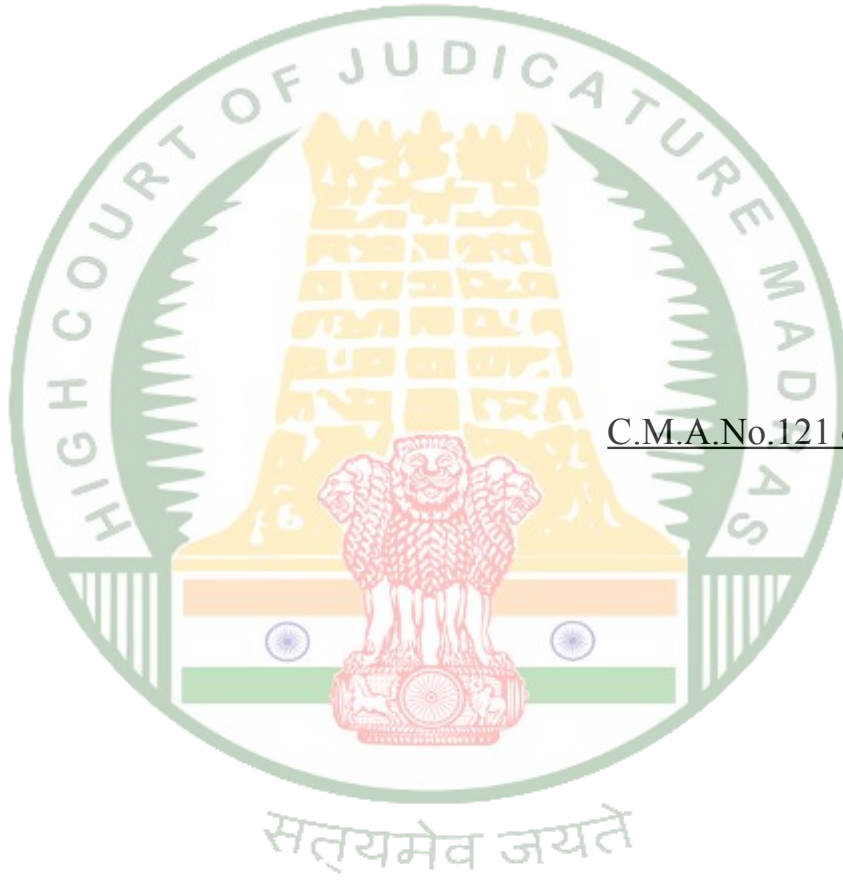
To

The Railway Claims Tribunal, Chennai Bench.

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S.M.SUBRAMANIAM, J.

Pns



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