

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

C.M.A.No.965 of 2009

P.Rajamani

..Appellant

Vs.

The Union of India  
Owning Southern Railway,  
Rep.by its General Manager,  
Central  
Chennai – 600 003.

..Respondent

**Prayer :** Civil Miscellaneous Appeal filed under Section 23(1) of the Railway Claims Tribunal, against the order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.44/2005 dated 21.01.2009.

For Appellants : Mr.S.Parthasarathy

For Respondent : M/s.T.P.Savitha

**JUDGMENT**

The order dated 21.01.2009 passed in O.A.No.44/2005 is under challenge in the present Civil Miscellaneous Appeal.

2. The claimant is the appellant and the application was filed under Section 16 of the Railways Act, seeking compensation on the ground that on 09.04.2005 at about 17.30 P.M., when the deceased was returning back from Ambattur to Thirumullaivayal (from his assigned work spot on 09.04.2005 to his house) after attending his duties by boarding the EMU at Perambur Loco Work with II Class Return Journey Ticket bearing No.30445 from Thirumullaivayal to Perambur Loco Works and back, due to heavy crowd in the said train, when the said train was reaching near Thirumullaivayal, the deceased had accidentally fallen down from the said moving train at about 17.30 Hrs., on 09.04.2005 and sustained grievous injuries on his head, right side eyebrow and lacerated injuries on his hands and legs. While he was struggling for life, his friend Babu who travelled along with the deceased, caused the grievously injured admitted as I.P.No.718683 (vide A.R.Copy No.3892613) to the Government General Hospital, Chennai with the help of the Railway Authorities and immediately informed the mother and brother of the deceased who immediately rushed to the Government General Hospital in the night of 9.4.2005 and looked after

him in Casualty Ward No.1 (ICU). Without responding to the medical treatment, the deceased died on 12.4.2005 at about 9.05 P.M. After the conduct of inquest by the concerned Railway Police, Avadi (concerning Cr.No.63 of 2005), the dead body of the deceased was handed over to the elder brother of the deceased by name Srinivasan (the applicants' another son) on 13.04.2005 and cremated the same at the Crematorium at Villivakkam on the same day.

3. The Tribunal adjudicated the issues with reference to the documents and evidences.

4. The learned counsel for the appellant mainly contended that the appellant could able to establish that the travel ticket was issued on 09.04.2005. When the ticket itself was produced, there is no reason to disbelieve the case of the respondent/Railways. The appellant could able to prove that the deceased was a bonafide passenger, while so, the tribunal has committed an error in rejecting the application. It is contended that the Railways has not filed even the Divisional Railway Managers' [DRM] Report and therefore, there is a doubt and such a

doubt is to be extended in favour of the appellant/claimant.

5. The Railway Tribunal in its finding has stated that the respondent's side evidence, one Mr.S.Paramasivam, Halt Agent, Thirumullaivoyil Railway Station was examined as RW-1. He was a retired employee of Railways and was engaged as a Halt agent at Thirumullaivoyil for issuing train tickets. He deposed that the original ticket as per Ex.A-1 containing Sl.No.30445 from Thirumullaivoyil to Perambur Loco Works and back was issued on 13.04.2005 and not on 09.04.2005. However, he has stated that the date stamp seen on the reverse of the ticket is 09.04.2005 and there is no chance to stamp back date on the ticket. The date mentioned on the reverse of the ticket was not affixed by the Station staff and there is a possibility of manipulating the date seal affixed on the back side of the ticket.

6. Thus, there is a discrepancy regarding the issuance of ticket on 09.04.2005. This apart, the Tribunal has narrated the facts and circumstances regarding the travel, which also creates a serious doubt and the findings in this regard in Paragraph 10 are extracted hereunder:

*“10. On going through the evidence of both sides as well as perusal of the documents, a doubt has arisen whether the deceased traveled on 09.04.2005 with the said ticket in question as AW-1 in her evidence has come out with the version that the deceased started from office at 5.30 p.m. from Ambattur Estate to reach Tirumullaivoyal and he traveled by bus upto Ambattur and thereafter, he has to go by train to Tirumullaivoyal whereas the ticket produced is for the journey from Perambur Loco Works to Tirumullaivoyal whereas the version of the applicant is that the deceased boarded the train at Ambattur. Be that as it may, as the respondent have produced the documents relating to the ticket and have clearly stated that the said ticket was not issued on 09.04.2005 and was issued only on 13.04.2005. Besides, the deceased was stated to have been working at Ambattur Clothing Factory near Ambattur Industrial Estate and was to travel only between Thirumullaivoyal to Ambattur and back; whereas the ticket that is produced (Ex.A-1) is the return journey ticket for journey between Thirumullaivoyal to Perambur Loco Works in place of Thirumullaivoyal to Ambattur and back. This fact again raises a doubt as to whether Ex.A-1 was somehow managed later on, just to make the story*

*credible. Non mention of ticket details either in the Inquest Report or in the final report or in any other document confirm the fact that the journey ticket (Ex.A-1) seem to confirm the above conclusion. Hence, we are inclined to hold that the deceased was not a bona fide passenger on the fateful day and this issue is answered in the negative against the applicant.”*

7. When a serious doubt has been raised with reference to the documents, the Tribunal arrived a conclusion that the appellant has not established his case for grant of compensation under the provisions of the Act. Under those circumstances, the Tribunal held that the appellant had not approached the Tribunal with clean hands and thus, not entitled for compensation.

8. This Court is of the considered opinion that when there are serious doubts regarding the travel of the deceased in a particular train and such discrepancies in respect of the travel ticket also raised and which was not clearly clarified, the Tribunal is right in rejecting the application and this Court do not find any infirmity as such.

9. Accordingly, the order dated 21.01.2009 passed in O.A.No.44/2005 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.965 of 2009 is dismissed. No costs.

24.02.2021

*kak*

Index: Yes/No

Internet: Yes/Non-Speaking order

To

1. The Railway Claims Tribunal,  
Chennai Bench, Chennai.

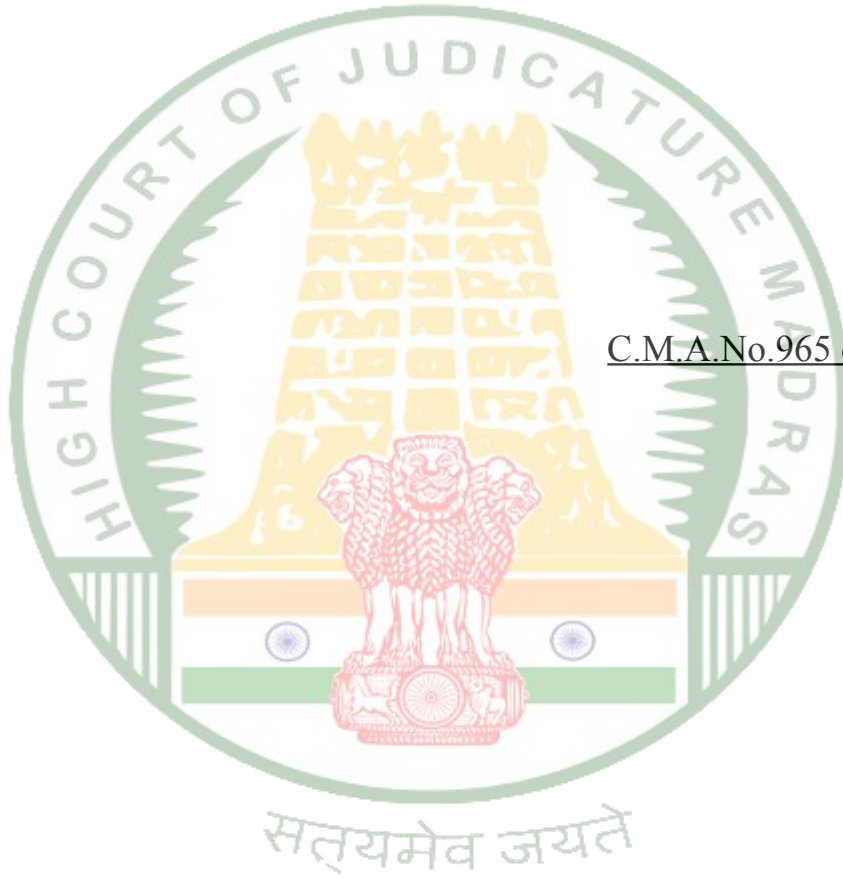


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*C.M.A.No.965 of 2009*

S.M.SUBRAMANIAM, J.

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