

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.02.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1470 of 2015

1.V.Sathyavathi
2.V.Anush Kumar
3.V.Sravan Kumar

.. Appellants

Vs.

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

.. Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 23 of the Railway Claims Tribunal Act 54 of 1987, appeal against the order dated 16.02.2015 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) No.77 of 2014.

For Appellants : M/s.T.Raja Mohan

For Respondent : Mr.M.Vijayanand

J U D G M E N T

Appellants herein are the petitioners in O.A.(II-U) No.77 of 2014 filed by the them before the Railway Claims Tribunal, Chennai Bench, who are the legal heirs claiming compensation for the fatal death of deceased 'V.Raghukumar', while he was travelling in the train accidentally fell down between Ulavapadi and Tettu Railway stations and suffered fatal injuries and died on the spot on 05.05.2013.

2. The Railway Authority also contested the case.

3. After full trial, the Tribunal dismissed the claim, concluding that the accident was not proved by the legal heirs of the deceased that on that day the deceased as a bona fide passenger, travelled in the train, fell down and met with an accident and sustained fatal injuries. Aggrieved by the same, the petitioner preferred this appeal before this Court.

4. The Railway Authorities appeared and contested the appeal.

5. The facts of the case reveals that on 04.05.2013 in the morning the deceased left his home attending the marriage function at Ongole, and on the same day in the night he left for his house. The appellants thereafter came to know from the Railway police, the deceased prior to 10.00 hours of 05.05.2013 while traveling in one of the train, due to heavy rush, speed, jerk and jolt of the train, between Ulavapadi and Tettu Railway Station accidentally fell down from the running train and sustained fatal injuries and died on the spot. It was an untoward incident and the ticket was also lost at the time of the accident. So the appellants/legal heirs prayed compensation from the Railway Authorities.

6. Before the Tribunal, to prove their claim on the side of the appellants, they adduced documents, Exh.A-1 to Exh.A-6 were marked and there is no oral evidence on the side of the Railway, but a Report of the Divisional Railway Manager / Vijayawada Division dated 18.10.2014 was marked.

7. On considering all these evidence, the Tribunal while dismissing the application stated that the appellants have not proved that the deceased was a bona fide passenger on that day. Aggrieved by the order, they have approached this Court.

Points for consideration:

(i) whether the Railway Tribunal erred in reporting that the deceased was not a bona fide passenger nor he was accidentally fallen down from the train thereby rejecting the application without considering the facts and circumstances?

8. As per the F.I.R. Marked as Exh.A-1, it was registered on 05.05.2013 based upon the complaint given by the Railway Staff under Section 174 Cr.P.C in Ongole Police and a report was filed on the next day viz. 06.05.2013 and in the description of the scene of the offence, it was mentioned as follows " the deceased was accidentally fallen down from the unknown running train while he was travelling on the railway track or someother reasons received injuries and died. Admittedly, the body was found on the Railway track. Based up on all these documents the learned counsel for the appellants submits that due to the heavy rush and jerk in the train he was accidentally fallen down and died. So the Railway Authorities are liable to pay the compensation.

9. Per contra, the learned counsel for the Railway Authority submitted that in order to claim compensation if the accident had occurred due to falling the deceased the victim must be a bona fide passenger. Admittedly, the ticket was not

traced out by the appellants and it is quite natural it is not possible to get the ticket from the deceased body after the said accident, but the inquest report which was filed immediately after the said accident. It clearly shows that he was accidentally fallen from the running train but the learned counsel for the Railway claimed that the accident might have happened due to his own negligence or it might be a suicidal.

10. Admittedly, as rightly pointed out by the counsel for the appellants there is no individual evidence on the side of the Railway Authorities that the victim made an attempt to commit suicide or due to his own negligence he had fell down. Admittedly, the body was lying on the track and as per the inquest report he was accidentally fallen down and sustained fatal injuries. Furthermore, the report produced by the Railway Authorities was preferred in the year 2014 near about one year after the said accident, so the Railway Authorities also had not proved the defence before the Tribunal. But without appreciating the fact the Tribunal erroneously dismissed the application, that the legal heirs are not entitled to claim of compensation as they failed to establish that the accidental fall of the Victim. But the facts and circumstances proves that the victim was accidentally fallen from the running train and sustained fatal injuries. The initial onus on appellant is proved on the other hand the Railway Authorities has not established that the victim was died due to his own negligence. So the order dated 16.02.2015 passed by the Tribunal in O.A.(II-U)No.77 of 2014 is set aside and the Civil Miscellaneous Appeal stands allowed. The appellants are entitled for a total compensation of Rs.8,00,000/- along with interest at the rate of 9% per annum from the date of petition.

(i) The first appellant/wife of the deceased is entitled for a compensation of Rs.5,00,000/- (Rupees Five Lakhs Only).

(ii) the appellants 2 and 3/sons of the deceased are entitled for a compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) each.

11. The appellants are permitted to withdraw their respective portion of the compensation by filing an appropriate application and the payments are to be made through RTGS.

12. Accordingly, the Civil Miscellaneous Appeal stands allowed. The respondent/Railway is directed to deposit the award amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of the judgment. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/
Sub Asst. Registrar

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To
1.The Presiding Officer
The Railway Claims Tribunal
Chennai

2.The General Manager
Union of India
Owning South General Railway
Secunderabad

+1 cc to M/s.M.Vijay Anand Additional Standing counsel
for Railways sr11375
+1 cc to M/s.T.Raja Mohan Advocate sr11359

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