

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM

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

C.M.A.No.1489 of 2015

1.Smt.Dikari Devi

2.Nira Kumari

3.Vishnu

4.Anjali (A2 to A4 being Minors rep.by
Mother & Natural Guardian A-1)

5.Bhim Singh

6.Smt.Beluma

... Appellants

Vs.

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

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 1987, against the order dated 24.02.2015 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) No.114 of 2014.

For Appellants : Mr.T.Raja Mohan

For Respondent : Ms.T.P.Savitha

J U D G M E N T

The order dated 24.02.2015 passed in O.A (II-U) No.114 of 2014, is under challenge in the present civil miscellaneous appeal.

2. The appellants are the claimants filed application on the ground that the deceased was a native of Manikoti Village in Doti District of Nepal. The deceased along with his wife and parents had come down to Guduvanchery and settled with a private job in a theatre at Guduvanchery. That on 27.06.2013, the deceased informed his wife that he was going to Potheri to meet his friends and left the house. The applicants came to know from the Tambaram Railway Police that the deceased, prior to 09.30 a.m. While traveling in a train by standing near the entrance, due to heavy rush, speed, jerk and jolt of the train, between

Guduvanchery and Potheri Railway Stations, accidentally fell down from the running train, suffered (1) crush and cut injury at lower part of both the thighs, (2) grievous injury on head with heavy discharge of blood, died at the place of occurrence. It was an untoward incident. The second class ticket purchased by the deceased for his travel from Guduvanchery to Potheri was said to have been lost at the time of accident and the same could not be retrieved by the police.

3. The final report filed by the police reveals that the body was found in the middle of the track and it was an accidental death. The Railway Tribunal considered the facts and circumstances and arrived a conclusion that the deceased died possibly while crossing the railway track. Therefore, the Railway is not liable to pay compensation as he was not a bonafide passenger.

4. This Court has to consider the facts and the reports of the DRM and other relevant records for the purpose of arriving a conclusion in this regard. The learned counsel for the respondent Railways produced the statement of one Mahadevan, Trackman / informant. The said informant in clear terms intimated to the authorities that the body of the deceased was found in the middle of the track and the said accident might have been occurred while crossing the railway track by the deceased. It is clearly stated that the body of the deceased found in the middle of the railway track and further due to the hit, the body was thrown away and it was found crushed.

5. Considering the nature of the accident as well as the injury sustained, an investigation was proceeded by the Railway authorities. The DRM report dated 18.08.2014 reveals that Shri.Dharme paul, aged about 30 years, s/o Bhimsingh, No.6, Pillayarkovil Street, Arul Nagar, Guduvanchery, Kancheepuram District, might have crossed the railway track in careless or negligent manner near KM-43/7 down line track between the CTM to GI Railway Stations may be hit, run over and killed on the spot by and EMU train. The deceased person was not in possession of valid railway pass or railway ticket. Thus, the accident occurred due to trespass in railway track in a careless and negligent manner.

6. This Court is of the opinion that there is every reason to believe the conclusion of the DRM in this regard, in view of the fact that the deceased was residing in Guduvanchery, very nearby to the accident place. This apart, the way in which the body was identified by the Trackman and the opinion of the Trackman while providing information to the higher authorities reveal that the accident occurred while crossing the railway track by the deceased.

7. This being the factum established, the factual inference drawn by the Railway Tribunal is in consonance with the documents and evidences available on record and therefore, this Court does not find any perversity or infirmity as such. Accordingly, O.A.(II-U) No.114 of 2014 stands confirmed and C.M.A.No.1489 of 2015 stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

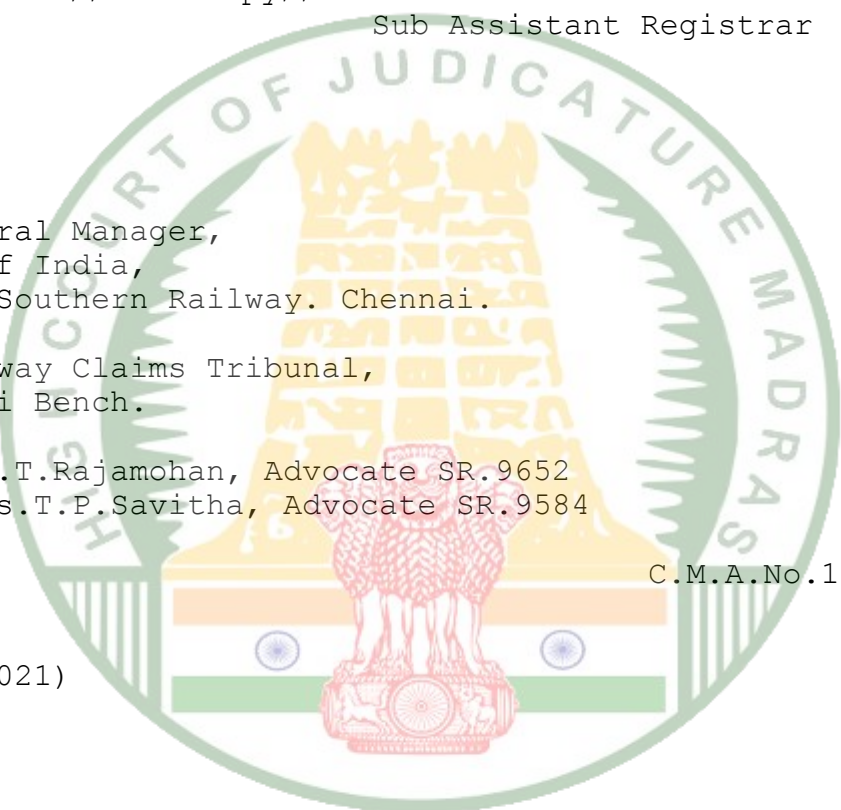
1.The General Manager,
Union of India,
Owning Southern Railway. Chennai.

2.The Railway Claims Tribunal,
Chennai Bench.

+1cc to Mr.T.Rajamohan, Advocate SR.9652
+1cc to M/s.T.P.Savitha, Advocate SR.9584

C.M.A.No.1489 of 2015

AD(CO)
CB(19/03/2021)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant capital. The entire emblem is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words 'HIGH COURT OF JUDICATURE MADRAS' are inscribed in a green circle around the emblem. At the bottom, the motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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