

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.1315 of 2016

J.Sivakumar

... Appellant

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 14.03.2016 passed by the Railway Claims Tribunal, Chennai Bench in O.A (II-U) No.130 of 2015.

For Appellant : Mr.T.Raja Mohan

For Respondent : Mr.C.V.Ramachandramurthy

J U D G M E N T

The order dated 14.03.2016 passed in O.A (II-U) No.130 of 2015, is under challenge in the present civil miscellaneous appeal.

2. The application seeking compensation is filed by the appellant on the ground that the deceased was a native of Kamanpatti Village of Dindigul District. In order to visit her mother house, she went to her native place. On 07.08.2014, she informed the applicant over the phone that she would come to Chennai on 08.08.2014 by train. The applicant came to know from the Egmore Railway Police that the deceased, on prior to 09.45 a.m. On 08.08.2014, while travelling in a train proceeding towards Chennai Beach Railway Station, due to over crowd, speed, jerk and jolt of the train, accidentally fell down from the running train between Kodambakkam and Nungambakkam Railway Stations, suffered grievous injury on the back of head and died at the place of occurrence. It was an untoward incident. The second class ticket purchased by the deceased for her travel from Dindigul to Chennai Egmore was said to have been lost at the time of accident and the same could not be traced by the Railway Police.

3. The learned counsel appearing on behalf of the appellant submitted that the Railway Tribunal rejected the claim mainly on the ground that the deceased was not a bonafide passenger and further the deceased committed an act of negligence.

4. The learned counsel appearing for the respondent Railway made a submission that the accident occurred due to the negligence on the part of the deceased and further she was not holding a valid ticket. Therefore, the Tribunal is right in rejecting the application.

5. Perusal of the inquest report reveals that the accident occurred and the final report filed after investigation reveals that the deceased fell down from the running train on account of huge rush in the suburban train. Therefore, the untoward incident occurred on account of heavy rush in the running train. The deceased sustained shock and died due to haemorrhage because of multiple injuries. The DRM report also reveals that the deceased Indurani aged about 38 years has fallen down from an unknown EMU Train and expired on the spot, while she was travelling in an unknown EMU train between MKK and NBK Railway Stations.

6. The Railways attributed negligence against the deceased. Admittedly, the deceased was a woman aged about 38 years. Large number of women employees are traveling in Metro cities including Chennai in EMU trains. After duty hours, they are forced to rush to board in EMU trains to reach their homes within a reasonable travel time. The women employees have to take care of their children and family members. Thus, the delay in reaching home would cause hardship to the working women as well as to the family members. With this pressure, more number of women/travelers are forced to travel by standing in EMU trains. Entry in EMU trains are broader than that of the doors in Express Trains. No doors are provided to close the entry in EMU Trains after boarding of passengers. In fact, entry passage is more broader and therefore, there is a possibility of falling down from a running train due to jerk and jolt. Adequate safety measures are not provided, more specifically, in EMU trains. Railway Authorities are bound to provide safety measures to the passengers, more specifically, working class passengers, who are all traveling on day-to-day basis and while returning back from work, they will be either tired or under pressure to reach their home quickly.

7. Large number of untoward incidents are not teaching any lesson to the Railway Authorities to formulate a scheme to improve the safety measures in EMU Trains. Very old coaches are made available for the passengers and speedy measures are not taken to provide adequate safety as well as to control the passengers. It is painful to state that the higher officials of the Indian Railways are receiving very decent salary from the tax payers money. Therefore, they are expected to perform their public duties with high responsibility and accountability.

8. 'Nation first' must be the conduct of the higher officials. Higher Officials are enjoying very sophisticated

and luxurious facilities even in Railways. It is relevant to point out that the very decent accommodations are provided and it is pertinent to note that in Chennai, Luxurious Officers Club is being maintained at Nungambakkam. The activities of the club are unknown to this Court. Public authorities are expected to consider the plight of the poor citizens of our great nation. Large number of passengers are suffering even for minimum facilities and adequate security in running trains. The Railway Authorities are expected to act consciously and in consonance with the constitutional philosophy.

9. Social Justice, economic equality are the principles enunciated in the Constitution of India. The public authorities are expected to strive hard to achieve social justice and to minimize the inequality amongst the citizens of our great nation. If we allow such inequalities to prevail long, then we are creating frustration in the minds of common man. It is not only injustice. We failed in our duty to work towards Constitutional goal.

10. We have already lost many lives on account of untoward incidents in Railway Premises. In the present case, the middle aged woman aged about 38 years, died and her family members lost their near and dear. Mere negligence or carelessness cannot be a ground to decline compensation to the victims. Railways are also equally contributing for such negligence by not providing adequate security for the passengers traveling in EMU trains and other trains. Thus, contributory negligence also plays a pivotal role. Therefore, only in the event of a criminal act or self-inflicted injury with an intention can be attributed against the victim as contemplated under Section 124(A) of the Railways Act. In all other circumstances, mere negligence or carelessness cannot be a ground to deny the compensation.

11. This being the factum established, this Court is of the opinion that the findings of the Tribunal deserves to be reversed. Accordingly, the order dated 14.03.2016 passed in O.A.(II-U) No.130 of 2015 is set aside and C.M.A.No.1315 of 2016 stands allowed. No costs.

12. The appellant is entitled for total compensation of Rs.8,00,000/- along with interest at the rate of 6% per annum from the date of passing of the award. The respondent Railway is directed to deposit the said amount within a period of 12 weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same by filing an appropriate application and payments are to be made through RTGS.

Sd/-
Assistant Registrar(CS IV)

gsk/ssb

To

1.The General Manager,

Union of India,

Owning Southern Railway, Chennai 600 003.

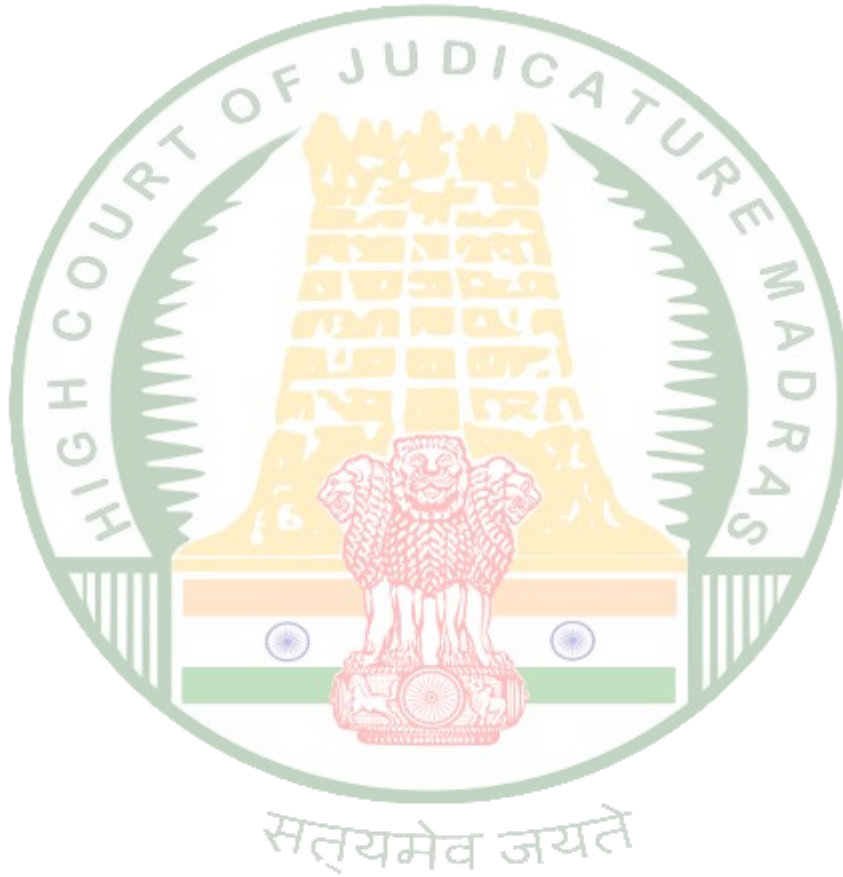
2.The Railway Claims Tribunal, Chennai Bench.

+1cc to Mr.T.Raja Mohan , Advocate SR.No. 9653

+1cc to Mr.C.V.Ramachandramurthy , Advocate SR.No. 9411

C.M.A.No.1315 of 2016

A.SK(23.03.2021)



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