

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.02.2021
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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.828 of 2015

1.A.Sumathi
2.N.Anbalagan

..Appellants

Vs.

The Union of India
Owning the Southern Railway,
Rep.by General Manager,
Chennai - 600 003. ...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal, against the order dated 19.12.2014 passed by the Railway Claims Tribunal, Chennai Bench, in OA(II-U) 85/2014.

For Appellants : Mr.T.Raja Mohan

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

J U D G M E N T

The order dated 19.12.2014 passed in OA(II-U) 85/2014 is under challenge in the present Civil Miscellaneous Appeal.

2. The claimants are the appellants and the Claim Petition is filed under Section 16 of the Railways Act on the ground that on 26.01.2014 prior to 16.55 hrs when the deceased was returning from Avadi, while he was travelling in EMU train, which was proceeding towards Chennai, had accidentally fallen down from the running train near Ambattur Railway Station, at KM 16/15-16A nearby up slow line thereby sustained grievous injury on the back of head, both legs were broken and died at the place of accident.

3. The learned counsel appearing on behalf of the appellants mainly contended that the Divisional Railway Managers' [DRM] Report as well as the documents relied on by the Railway authorities and the Tribunal are presumptive and the Railways could not able to establish that it is a case of trespass, in view of the fact that it was not established by the Railways regarding trespass, the claimants are entitled for compensation.

4. The First Information Report registered on 26.01.2014. Ex.A1 reveals that the Station Master conveyed through walkie

talkie that two dead bodies near up slow line home signal at KM 16/15 were found. However, there was no information stating that the deceased were travelling in any of the train or fallen down from the running train. No ticket was retrieved from the dead body and the appellants also could not able to establish that the deceased was in possession of a valid travel ticket. Thus, the very F.I.R itself is not supportive of the appellants/claimants. If at all, it is a case of fallen down from a train, some co-passengers could have noticed or could have stopped the train and in this case, nothing of that happened. Contrarily, the Station Master through walkie talkie, informed that two dead bodies were found. The DRM Report filed after investigation also reveals that it is a case of trespass and not a fallen down case as stated by the Police in the Final Report. If at all, it is a fallen down case, the traveling public or the people living adjacent to the Railway track would have informed to any Railway Authority. However, no such information was given to any one of the Railway authority. Thus, the Report was filed, holding that it was a case of trespass.

5. This Court is of the considered opinion that even the statement the F.I.R as well as the Final Report are not corroborating. When the details regarding the accident are not notified and the Station Master merely informed that two dead bodies were found and there was no clear evidence to establish that the deceased was a bonafide passenger traveling in a train and the accident occurred due to falling down from a running train, there is no reason to arrive a conclusion that it is a case of an untoward incident.

6. The Railway Claims Tribunal adjudicated the issues with reference to the documents and the evidences available and the findings in this regard are made clear in Paragraph 6.2 of the order, which reads as under:

"6.2. It is seen from the records that police took up investigation after receipt of the message from the Station Master / ABU based on which FIR as per Exh.A-1 was registered. It is seen from this document that two male bodies one aged about 60 years and another aged about 20 years were lying at Km.16/15 Ambattur yard up slow line as conveyed by motorman of 43122 at 16.55 hours. Inquest was drawn as per Exh.A-4. In the final report as per Exh.A-5, it is recorded by the Police that on 26.01.2014 before 16.55 hours, the deceased while returning from Avadi by an unknown train accidentally fell down at Km.16/15-16A on up slow line near Ambattur Railway station, sustained injuries and died at the spot and the police have treated the case as accidental death due to fall down. It is pertinent to point out that in the inquest and final reports, it is mentioned that the deceased might have fallen down from a running

train prior to 16.55 hours of 26.01.2014 while in the English translation filed by the learned counsel for the applicants, he has stated that the incident happened at 16.55 hours which was the time at which Motorman saw the two dead bodies on the spot in question. Thus as can be seen from the records, it is made very clear that there was on eye witness to the alleged incident and lying of the bodies at the spot in question were noticed by the Motorman of 43122 at 16.55 hours."

7. In view of the facts and circumstances, this Court do not find any infirmity or perversity in respect of the decision arrived by the Railway Claims Tribunal and consequently, the order dated 19.12.2014 passed in OA(II-U) 85/2014 stands confirmed. Accordingly, the Civil Miscellaneous Appeal in C.M.A.No.828 of 2015 is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The General Manager,
The Union of India
Owning the Southern Railway,
Chennai - 600 003.

+1cc to Mr.T.P.Savitha , Advocate SR.No. 10657

+1cc to Mr.T.Rajamohan , Advocate SR.No. 11358

C.M.A.No.828 of 2015

A.SK(15.04.2021)