

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.875 of 2015

M.Uma

... Appellant

Vs.

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

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 1987, against the order dated 04.03.2015 passed by the Railway Claims Tribunal, Chennai Bench in O.A (II-U) No.66 of 2014.

For Appellant : Mr.T.Raja Mohan

For Respondent : Ms.A.Shri Jayanthi

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JUDGMENT

The order dated 04.03.2015 passed in O.A (II-U) No.66 of 2014, is under challenge in the present civil miscellaneous appeal.

2. The facts regarding the accident are that the deceased was working as a Coolie with a private contractor at Potheri. That on 19.05.2013, by purchasing a second class ticket, he traveled from Chengalpet to Tindivanam informing his mother, the applicant that he would collect his weekly salary and return home. However, he did not return and the applicant with the help of the contractor searched for him in various places. The applicant came to know from a person in Chengalpet that a boy had fallen down from the train and the body has been kept in the Government Hospital, Chengalpet. The applicant identified the deceased. The applicant came to know from the police authorities that on 19.05.2013, the deceased who traveled in a unreserved compartment, due to rush, speed and jerk of the train, accidentally fell down, suffered grievous injuries and died at the place of occurrence.

3. The inquest report reveals that the accident occurred on 19.05.2013 at about 11 a.m. The final report filed after the investigation also reveals the fact that an accident occurred and it was an accidental death. When the factum regarding the accident was established, both through the inquest report and the final report filed after the investigation and the non availability of the travel ticket would not be a ground to decline the compensation to the victim.

4. Even in cases where the travel tickets are not retrieved from the deceased persons and the accident was established in the railway premises, then, the burden is to be shifted on the Railways to establish that the deceased was not a bonafide passenger. In this case, the DRM report reveals that no records are available from the Railway side for travelling in train by the deceased and also no ticket was seized by GRP/CGL during the time of conducting inquest and also not able to establish that the deceased travelled in train.

5. In such circumstances, the Courts are bound to draw a factual inference that the deceased travelled in a train and the accident occurred in the Railway premises. Such factual inference ought to be drawn, in view of the fact that the grant of compensation is under the welfare legislation. Only if the Railway is able to establish that the deceased was not a bonafide passenger, the benefit of compensation cannot be denied at all.

6. In the present case, the DRM report reveals that no records are available. If no records are available, the benefit of doubt is to be extended in favour of the claimant as it was established that the accident occurred in the Railway premises. This being the factum established, the appellant is entitled for compensation and the findings of the Railway Tribunal is perverse and not in consonance with the principles established.

7. Accordingly, the order dated 04.03.2015 in O.A (II-U) No.66 of 2014 is set aside and C.M.A.No.875 of 2015 is allowed. No costs.

8. The appellant claimant is entitled for the 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 amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of this order and on such deposit, the appellant is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made through RTGS.

17.02.2021

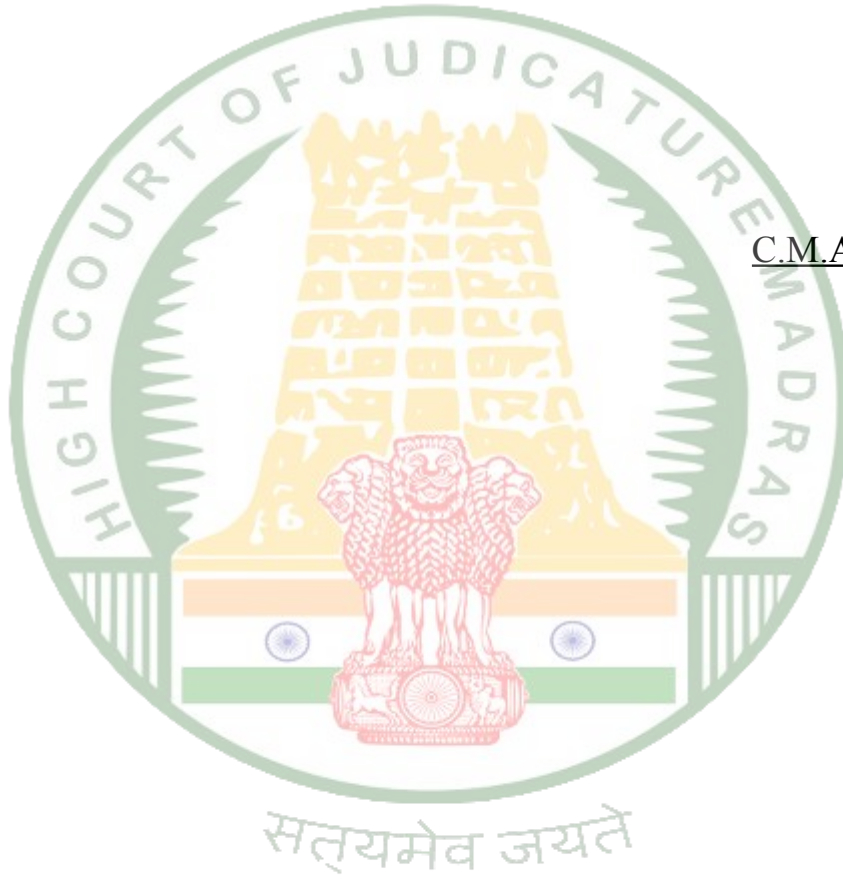
Index: Yes/No
Internet: Yes/No
Speaking order/Non-Speaking Order
gsk

To

- 1.The General Manager,
Union of India,
Owning Southern Railway.
- 2.The Railway Claims Tribunal, Chennai Bench.

S.M.SUBRAMANIAM, J.

gsk



C.M.A.No.875 of 2015

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C.M.A. No.875 of 2015

S.M.SUBRAMANIAM, J.

This matter came up for hearing today under the caption 'For Being-Mentioned' at the instance of the learned counsel appearing for the appellant.

2. In view of the submission made, Paragraph No.8 of the judgment passed in C.M.A.No.875 of 2015 dated 17.02.2021, is to be read as follows:

“8.The appellant claimant is entitled for the 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 amount with accrued interest before the Railway Claims Tribunal, Chennai Bench, within a period of 12 weeks from the date of receipt of a copy of this order and on such deposit, the appellant is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made through RTGS.”

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28.06.2021

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Note: Registry is directed to carryout necessary corrections and re-issue fresh order copy to the respective parties.

S.M.SUBRAMANIAM, J.

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C.M.A.No.875 of 2015

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28.06.2021