

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2728 of 2016

1.N.Daivanayagi

2.N.Durairajan

3.N.Indhumathi (Minor)

Appellant 3, rep.by Mother and
Natural Guardian, Appellant-1.

...Appellants

Vs.

The Union of India owning
Southern Railways,
Rep.by its General Manager,
Chennai - 600 003.

...Respondent

(Cause title accepted vide court order
dated 15.04.2016 made in C.M.P.No.3362/16
in CMA.SR.No.59012 of 2015)

Prayer : Civil Miscellaneous Appeal filed under Section 23 of
the Railway Claims Tribunal, against the judgment in O.A.(II-U)
66/2013 on the file of the Railway Claims Tribunal, Chennai
Bench, dated 03.03.2015 in dismissing the Original Application,
filed by the Appellants, claiming compensation of Rs.4 lakhs,
for the death of the deceased Natarajan, the husband and the
father of the 1st and 2 & 3 appellants herein, respectively.

For Appellants : Mr.R.Venkatajalapathy

For Respondent : Mr.C.V.Ramachandramurthy

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The judgment dated 03.03.2015 passed in O.A.(II-U) 66/2013
is under challenge in the present Civil Miscellaneous Appeal.

2. The claimants are the appellants and the application was
filed under Section 16 of the Railways Act on the ground that
the deceased Mr.Natarajan was a Driver in Private Lorry Agency.

He had travelled to Chennai on 19.01.2012 by train name, Tiruchendure Express in General Coach No.92456 SR. During the travel time, he handed over his baggage to co-traveller and he went to bathroom. However, after a long time, he had not returned back. The train was running in between Dindugal and Trichi Stations, the toilet door was closed. Unfortunately, it was informed that no mechanics are available to open the door in a running train. When the train reached Egmore, thereafter they opened the door and found that the said Natarajan, who was a bonafide passenger died.

3. Post-mortem Report reveals that the passenger died and the Divisional Railway Manager [DRM] Report states that it was a natural death. Even the Final Report filed by the Sub Inspector of Police, Railway Police Station, Egmore states that after investigation and inspecting the scene of occurrence, it was found that the death of the passenger was a natural death and he was a bonafide passenger.

4. Both the Investigation Report as well as the Divisional Railway Manager [DRM] Report reveals that it was a natural death. No injury was found in the dead body. However, it was an admitted fact that the deceased was a bonafide passenger.

5. Section 153 of the Railways Act enumerates that if any untoward incident occurs, then alone the claimants are entitled for compensation. In the present case, it was established by the Railway Authorities that it was a natural death and therefore, the Tribunal arrived a conclusion that the appellants are not entitled for compensation. The Tribunal with reference to Section 123 and Section 124A of the Railways Act, made a finding that the appellants could not able to establish that the untoward incident occurred. In the absence of any such factum, the compensation cannot be granted under the Statute.

6. The Tribunal considered the facts and circumstances as well as the deposition of the witnesses. Even the eye witnesses A.W.1 and A.W.2 had narrated the facts. There was no external or internal injuries anywhere on the body and further, it was found that the deceased would appear to have died of the effects of coronary heart decease and natural cause. This being the categorical findings of the Tribunal, this Court do not find any infirmity or perversity as such.

7. Accordingly, the judgment dated 03.03.2015 passed in O.A. (II-U) 66/2013 stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.2728 of 2016 is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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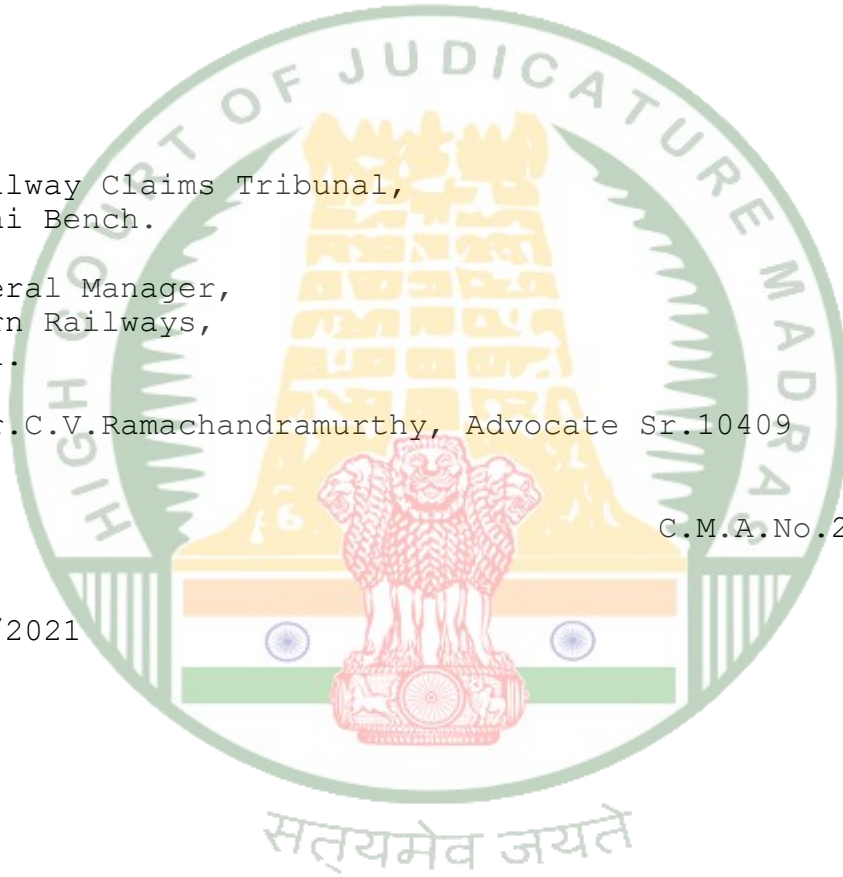
1. The Railway Claims Tribunal,
Chennai Bench.

2.The General Manager,
Southern Railways,
Chennai.

+lcc to Mr.C.V.Ramachandramurthy, Advocate Sr.10409

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