

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.360 of 2016

Konduru Pedda Appamma

..Appellant

Vs.

Union of India
owning Southern Railway,
Rep.by General Manager,
Park Town,
Chennai - 600 003.

..Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claim Tribunal Act, against the order dated 20.08.2015 passed by the Railway Claims Tribunal, Chennai Bench, in OA(II-U) 361/2013.

For Appellant : Mr.T.Raja Mohan
For Respondent : Mr.S.R.Sundaram

J U D G M E N T

The judgment dated 20.08.2015 passed in OA(II-U) 361/2013 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant states that the deceased was working in the Private Contractor at Chintharipet in Chennai. He used to go to work place at Nungambakkam by purchasing ordinary ticket. The applicant came to know from the co-workers and Police authorities that on 23.11.2006, the deceased who travelled from Chennai Egmore to Nungambakkam, when the train was proceeding near Chetpet Railway Station, due to speed and jerk of the train accidentally fell down, was hit by electric post and suffered grievous head injury. He was shifted to Government Hospital and was declared dead.

3. The F.I.R was registered and the inquest report was filed. The final report was also submitted. However, the report filed by the Divisional Railway Manager (DRM) and the findings therein categorically reveals that "On 23.11.2006, Public informed to Sri Elampirai, TTE/NBK, that one person was run over and killed by a train while trespassing the railway line in

between Chetpet and Nungambakkam stations. The TTE reported the same to CNC/NBK. GRP/MS registered a case in Crime No.630/2006 under Section 174 of Cr.PC. No ticket / pass was recovered from the deceased during the inquest by GRP/MS. The deceased was identified as mentioned in column No.05."

4. The Inspector/RPF also reiterated the said facts in letter dated 18.03.2014 and therefore, the Railway Tribunal raised a doubt regarding the issue of bona fide passenger. Undoubtedly, the death occurred in a Railway Track. However, the TTE immediately after the accident on 23.11.2006, by gathering information, reported the same to CNC/NBK. GRP/MS registered a case in Crime No.630/2006 under Section 174 of Cr.PC. Further, it was confirmed that no ticket / pass was recovered from the deceased during the inquest by GRP/MS.

5. When the Ticket Travel Examiner, who was very much available in the Station by gathering information and reported about the accident to the CNC/NBK, that is to be relied upon. The learned counsel for the appellant relied on the deposition of the said TTE Mr.Elampirai before the Railway Claims Tribunal, which was taken after a lapse of about 9 years from the date of untoward incident. The said deposition of the TTE reads as under:

"I have not been summoned by court, but I have come on the basis of letter from Railway. I retired from the service of railway on 30.06.2010. I have come to know about the date of incident only by seeing the papers, but I do not remember anything. I know the contents of my affidavit. I was station TTE, Nungambakkam on that day. I do not know about the rules relating to untoward incidents, but I am of aware of my duties as TTE. I have given a message on the day of incident after confirming about the incident from the keyman. I was shown the message given by me, but I have not filed the message. The statement give by me annexed with the DRM report was given by me on 21.02.2014 on enquiry by Railway Protection Force. At that time I had not seen the message which was stated to have been given by me earlier. My message would have been based on the message given by people stating a body is lying."

6. However, perusal of the said statement reveals that the TTE did not remember anything but he has not disowned the signatures made by him or the report given by him on the day of accident. In fact, the TTE deposed before the Tribunal by stating that "I have given a message on the day of incident after confirming about the incident from the keyman". Thus, the TTE though could not able to remember the entire facts and

circumstances, he deposed that he had given a message on the day of incident after confirming about the incident from the keyman. Thus, the TTE had confirmed about the accident from the keyman and therefore, reported the same to the CNC/NBK.

7. This being the factum established, the Tribunal relying on the said evidence, arrived a conclusion that the accident falling of any passenger from a train carrying passenger was not established and further, the deceased was not holding a valid ticket nor any such ticket was retrieved from the deceased or from the place of occurrence by the investigating officials.

8. This being the factum established, this Court do not find any infirmity as such in respect of the conclusion arrived and consequently, the judgment dated 20.08.2015 passed in OA(II-U) 361/2013 is confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.360 of 2016 stands dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Registrar, Railway Claims Tribunal,
Chennai.

+1cc to Mr.T.Raja Mohan, Advocate, Sr.No.8900

C.M.A.No.360 of 2016

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