

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.689 of 2016

1.J.Pushpavalli  
2.Sai Rohit  
3.Ragavan  
4.Murugesan  
5.M.R.Rajalakshmi

Appellants/Applicants

vs.

Union of India owning  
South central Railway,  
rep.by its General Manager,  
Secundrabad.

.. Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 54 of 1987 against the order dated 06.01.2016 passed by the Railway Claims Tribunal, Chennai in O.A.(II-U)No.52 of 2015.

For Appellants : Mr.T.Raja Mohan

For Respondents : Mr.U.Venkatesan

O R D E R

The judgment dated 06.01.2016 passed in O.A.(II-U)No.52 of 2015 is under challenge in the present Civil Miscellaneous Appeal.

2. The untoward incident as narrated by the appellants are that " the deceased was a resident of Manavalanallur Village of Cuddalore District. Along with his friend Sathya, he was working as driver in Mumbai. That on 11.03.14 he informed his wife by phone that he was leaving Mumbai by train and would reach home soon. The applicants came to know from the co-passenger and Gooty Railway Police that the deceased and co-passenger by purchasing two separate ticket bearing No.37153256 & 37153257 for travel from Chatrpathi Shivaji to Virudhachalam Jn, traveled in overcrowded general compartment of Mumbai-Nagercoil Express Train. Prior to 03.30 hrs of 12.03.14, when the train was proceeding between Gooty and Pathakottacheruvu Railway Stations, due to speed, rush, jolt and jerk of the train, the deceased accidentally fell down and suffered (1) grievous injury above

left eye brow, left chest (2) fracture injury on left shoulder, left elbow, (3) bleeding injury on both knees, (4) aberrations on right cheek, left cheek, right eye, left hand, chest, stomach and on the back of body and died at the place of occurrence. It was an untoward incident. The co-passenger Sathya did not aware of the incident as he was in deep sleep at the time of accident. However, he searched for the deceased at Renigunta Jn and as he could not find him, he went to Virudhachalam. After intimating the family members of the deceased, along with other relatives, he came back to Renigunta and while on the way, he got a phone call from Gooty Railway Police and immediately rushed to Gooty R.P.S. The police took them to the hospital mortuary and shown the body and they identified the body as Jayachandran."

3. The F.I.R was registered and the inquest report was also submitted. The inquest report also confirms that the deceased died due to the injuries suffered in a train accident. The deceased was found lying in between up and down track at KM No.417/2-3 between Gooty-Patakothacheruvu Railway Stations. It is pertinent to note that in the present case, the travel ticket was produced by the appellants before the tribunal which was marked as Ex.A5. The said travel ticket and its genuinity was also confirmed by the Railway Authorities in letter dated 23.11.2015. In spite of the fact that the travel ticket was produced by the appellants and the genuinity of the said ticket was also confirmed by the Railway Authorities, the Railway Tribunal raised a doubt why the Xerox copy of the ticket produced by the appellants was not attested by the Competent Authority. Undoubtedly, the appellants had produced unattested Xerox copy of the travel ticket. However, the said travel ticket was verified by the Railway Authorities and they have issued an order in proceeding dated 23.11.2015 stating that the ticket is genuine and therefore, there is no reason for the Tribunal raised such a doubt which is absolutely unnecessary. Though the Xerox copy of the ticket was produced, when the genuinity of the travel ticket was confirmed by the Railway authority, the same is binding on the Railway so as to establish that the deceased was not a bona fide passenger travelling in the train. There is no dispute regarding the accident. The death occurred due to the train accident. When all such facts were established beyond any pale of doubt, the claim petition was rejected mainly on the ground that the Xerox copy of the travel ticket was produced. This Court is of the considered opinion that when the respondent/Railway itself confirmed the genuinity of the travel ticket, the appellants are entitled for compensation under the provisions of the Railway's Act.

4. This being the factum, the judgment dated 06.01.2016 passed in O.A.(II-U)No.52 of 2015 is set aside and the Civil Miscellaneous Appeal stands allowed. The appellants are entitled for a total compensation of Rs.8,00,000/- (Rupees Eight Lakhs

Only) as amended with effect from 01.01.2017. The compensation is directed to be apportioned as detailed hereunder:

(i) The first appellant/Pushpavalli is entitled for a sum of Rs.3,00,000/- (Rupees Three Lakhs Only).

(ii)The second and third appellants are entitled for Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Rupees Only) each and the said amount of Rs.3,00,000/- is to be deposited in any one of the Nationalised Bank in an interest bearing Deposit schemes till they attain majority.

(iii)The appellants 4 and 5 are entitled for Rs.1,00,000/- (Rupees One Lakh Only) each.

5. The respondent is directed to deposit a sum of Rs.8,00,000/- (Rupees Eight Lakhs Only) along with interest at the rate of 6% per annum from the date of award within a period of 12 weeks from the date of receipt of a copy of this order and on such deposit, the major claimants are permitted to withdraw their respective portion of the award amount by filing an appropriate application and the payments are to be made through RTGS. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To

The Railway Claims Tribunal, Chennai.

Copy To

The Section Officer,  
V.R. Section, High Court,  
Madras.

+1cc to Mr.T.Rajamohan, Advocate, S.R.No. 8898  
+1cc to Mr.V.Venkatesan, Advocate, S.R.No. 8636

C.M.A.No.689 of 2016

BS(CO)  
GN(16/03/2021)