

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.919 of 2020

1.Nagendra Rao Putta

2.P.Brinda Leksha

3.Jeevana Tanvee Putta

4.Jeevana Manvee Putta

(Appellants 2 to 4 are represented by the Father and Natural Guardian Nagendra Rao Putta)

...Appellants/ Appellants

Vs.

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

... Respondent/ Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 1987, against the judgment dated 13.12.2019 made in O.A (II-U) No.71 of 2019 by the Railway Claims Tribunal, Chennai Bench passed by the Vice Chairman (Judicial).

For Appellants : Mr.R.Sekaran

For Respondent : Mr.M.Vijayanand

J U D G M E N T

The order made in O.A (II-U) No.71 of 2019 dated 13.12.2019, is under challenge in the present civil miscellaneous appeal.

2. The claimants are appellants. The claim petition was filed under Section 16 of the Railways Act, seeking compensation with reference to the facts as narrated in the application which reads as follows:

"The deceased was a resident of Pallavaram in Chennai. That on 23.02.2018, in order to go to Vasam Eye Care Hospital in regard to treatment to her daughter Jeevana Manvee Putta (4th minor applicant), she left the house. The applicant came

to know from the Tambaram Railway Police that the deceased, on 23.02.2018 at 15.37 hrs, while returning by EMU train (Tirumalpur-Beach) due to over crowd, accidentally fell down from the running train at P.F.No.1 at Pallavaram Railway Station, suffered grievous injury on head, nose with heavy discharge of blood and aberration all over the body died at the place of occurrence. It was an untoward incident."

3. The Railway Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties.

4. The learned counsel for the appellants made a submission that the untoward incident occurred in the railway station. Immediately, FIR was registered. The FIR was registered based on the opinion provided by the Station Master. Thereafter, investigation was conducted and inquest report also reveals that the accident occurred within the railway premises. The deceased died on account of fatal injuries. The accident occurred near the railway platform at Pallavaram Railway Station. The postmortem report also reveals that the deceased died on account of grievous injuries. However, the Railway Claims Tribunal formed an opinion that the travel ticket produced by the appellants was an invalid travel ticket. Therefore, the deceased was not a bonafide passenger. Accordingly, the petition was dismissed.

5. The learned counsel for the appellants reiterated that the deceased along with her daughter aged about 4 years, travelled in a train on the unfortunate day and met with an accident. The untoward incident was established. The Station Master registered FIR. The belongings were recovered from the deceased body. The 4 years old girl was also found in the railway station at the time of the untoward incident. When these factors are established, the Tribunal ought not to have dismissed the petition merely on the ground that the travel ticket produced by the appellants was invalid. Even in such circumstances, the burden of proof must be shifted on the Railways to establish that there is no untoward incident occurred or the deceased was not a bonafide passenger. Thus, the Tribunal has committed an error in rejecting the claim petition.

6. The learned counsel for the respondent objected the said contention by stating that there are contradictions of facts. The travel ticket produced was invalid. Then, the deceased was not a bonafide passenger and even with reference to the facts narrated, there are contradictions. The Railway Tribunal is right in rejecting the claim petition.

7. The learned counsel for the respondent Railways in support of the findings of the Railway Tribunal, contended that the deceased did not take any journey from Pallavaram Railway Station. Even the time of accident was not correlative. In view of several contradictions regarding the occurrence, the Railway Tribunal rejected the claim petition and therefore, the appeal is liable to be dismissed.

8. Considering the arguments, this Court is of the opinion that the grant of compensation is a welfare scheme extended for the family of the deceased/injured due to distress. The welfare schemes are to be implemented and with reference to certain contradictions, the genuinity of the untoward incident alone must be considered and if the untoward incident is established, the Court shall not hesitate in granting compensation. The principles of liberal interpretation is to be adopted in the matter of grant of compensation in such circumstances. In case of death, the family is losing their dear and near and a sole breadwinner in some cases. All such mitigating factors are also to be considered while considering the claim petition for grant of compensation. Thus, once the untoward incident occurred in the railway premises and such untoward incident is established and the occurrence was due to fallen down from a running train or in platform, then, the non-availability of the travel ticket would not be a ground to decline compensation to the victims.

9. Even the Hon'ble Apex Court of India held that in such circumstances, the burden of proof must be shifted on the Railways to establish that the deceased /injured was not a bonafide passenger. In the present case, the Railways could not able to establish that the deceased was not a bonafide passenger. Contrarily, the Railways made an attempt to establish that the deceased was not holding a valid travel ticket and there are certain factual contradictions with reference to the time of travel.

10. In cities like Chennai, in every two minutes, EMU trains are passing. Several EMU trains as well as Express trains are passing through the platforms. In such circumstances, it may not be possible to ascertain on some occasions. However, such contradictions cannot be a ground to draw a factual inference that no untoward incident occurred.

11. In the present case, the deceased sustained fatal injuries. The Station Master registered FIR and the inquest

report was also filed showing that the belongings were recovered and the dead body of the deceased was found in the platform of the Pallavaram Railway Station. The Pallavaram Railway Station

is in the city. Thus, many persons would have noticed and the Station Master registered the FIR. Therefore, this Court has no hesitation in arriving a conclusion that the untoward incident occurred in Pallavaram Railway Station and therefore, certain minor contradictions regarding the timings, would not disentitle the claimants for getting compensation under the provisions of the Railways Act.

12. Importantly, the final report submitted by the Inspector, Railway Protection Force, Tambaram, reveals that the Inspector examined the Doctor who formed an opinion that the death occurred due to fallen down from a running train. When the final report of the police also reveals that it is a case of fallen down from a running train, this Court has further examined the DRM report which was filed after a detailed enquiry. Even the discussion of evidence collected by the RPF, the same reveals that on 23.02.2018 at about 16.20 hrs, public informed Sri.Paramasivan, Con/RPF/STM that one woman and female child later known her name & address as Haritha Putta, aged 37 years, W/o.Nagendra Rao, No.S1 Sathiyaswara Apartment, 42/57, Bharathi Nagar Main Road, Jameen Pallavaram and child (Jeevan Manvi, aged about four years), had fallen down from a running train at Pallavaram Railway Station North end.

13. Thus, the evidences collected by the Railways also indicates that the untoward incident occurred due to fallen down from a running train. On receipt of information, the RPF staff rushed to the spot where they found one woman was lying unconscious with severe injuries but her child was alive without injury and immediately called 108 Ambulance and the medical staff arrived at the spot and declared that the women died. The female child was handed over to SM/PV and the matter was informed to GRP/TBM for taking necessary action.

14. The entire discussion of evidence collected by RPF reveals that the untoward incident happened and the deceased died due to fallen down from a running train. The conclusion arrived by the DRM reveals that the deceased while travelling in Train No.66042, had fallen down from a running train at Pallavaram Railway Station Platform No.1, in which she sustained severe injury and died on the spot. This being a categorical finding in DRM's report, there is no reason to rely on the minor contradictions with reference to the timings and reject the claim petition. The Railway Tribunal considered the fact that the travel ticket was not valid and further, the time of travel was also not clear. If the claim petitions are rejected on these contradictions, this Court is afraid that the very purpose and object of grant of compensation would not be achieved.

15. This apart, the Tribunal found that the appellants have not let in evidence in this regard. This Court is of the opinion that the FIR, inquest report, final report submitted by the Inspector of Police, RPF as well as the DRM's report which all are the Railway Department reports and those reports are sufficient to arrive a conclusion that the untoward incident occurred. The non-availability of valid travel ticket cannot be a ground to reject the petition, since the passenger died in this case. There is every possibility of losing the ticket at any point of time, more specifically, at the time of falling down or while taking her body to the hospital or during the postmortem etc.

16. This being the possible circumstances for lose of travel ticket, this Court cannot come to a conclusion that the non-availability of travel ticket would be a ground to reject the claim petition. The Tribunal proceeded on certain facts and based on certain contradictions and on the ground that the travel ticket was not found, rejected the claim petition.

17. Thus, this Court is not inclined to accept the finding of the Tribunal. Accordingly, the judgment and decree dated 13.12.2019 in O.A.(II-U) No.71 of 2019, is set aside and C.M.A.No.919 of 2020, stands allowed. No costs.

18. The appellants are entitled for 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 Railways is directed to deposit the entire amount with accrued interest before the Railway Claims tribunal, Chennai Bench, within a period of twelve weeks from the date of receipt of a copy of this order. The appellants are entitled for their respective shares of compensation as apportioned hereunder:

"The appellants are entitled for Rs.2,00,000/- each along with proportionate interest. The first appellant is permitted to withdraw his share of the compensation by filing an appropriate application and the payments are to be made through RTGS. In respect of the appellants 2, 3 and 4, their respective portions are to be deposited in any one of the Nationalized Bank in interest bearing deposit scheme and the deposits are to be renewed periodically till they attain the age of majority."

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

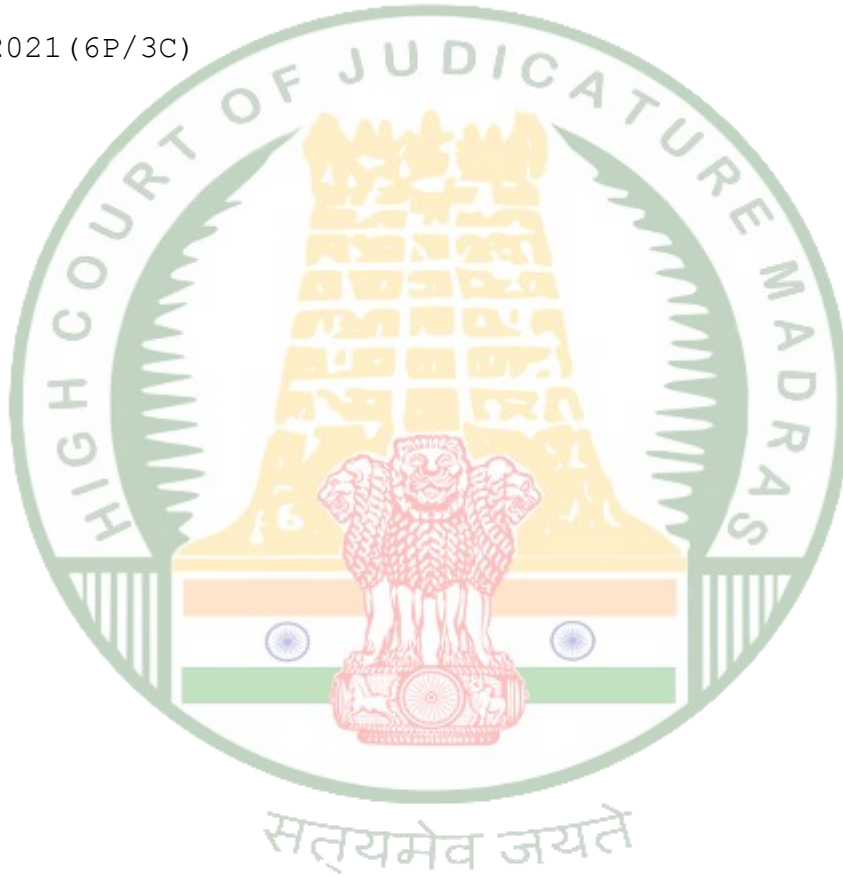
To

The Vice Chairman (Judicial),
Railway Claims Tribunal,
Chennai Bench.

+1 cc to M/S.M.Vijay Anand, Advocate Sr No.17888

C.M.A.No.919 of 2020

AAB (CO)
RG.22.04.2021 (6P/3C)



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