

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No. 1999 of 2019

C.Sumathy

..Appellant

Vs

The Union of India Owning
Southern Railway
Rep. By its General Manager,
Chennai- 600 003.

...Respondent

Appeal filed under Section 23(1) of the Railway Claims Tribunal Act, 1987 against the order dated 30.11.2018 made in O.A.(II-U)No. 78 of 2018 on the file of the Railway Claims Tribunal, Chennai Bench.

For Appellant : Mr.R.Rajaramani

For Respondent : Mr.M.Vijay Anand

JUDGMENT

The judgment dated 30.11.2018 passed in O.A.No. 78 of 2018 is under challenge in the present civil miscellaneous appeal.

2. The claimant is the appellant and the claim petition was filed seeking compensation under Section 16 of the Railways Act on the ground that on 19.11.2016 at about 7.30 a.m., while travelling in Chennai-Karaikal express, when the train negotiated a turning, the deceased, who was standing near the door/exit, had fallen due to jerk/shake and due to imbalance created due to the speed of the train and died.

3. The Railway Claims Tribunal adjudicated the issues with reference to the documents and evidence. The Tribunal held that the appellant is the dependant of the deceased under Section 123 (b) of the Railways Act. With regard to the untoward incident and the bonafide passenger, the Tribunal elaborately adjudicated the issues and based on the inquest and final report, found that it was a case of suicide arising out of a family dispute.

4. According to the respondent/Railways, the deceased was not a bonafide passenger of Chennai-Karaikal Express and well before arrival of the said train, the body of the deceased was found on the track at KM 93/3 (Karaikal Rly, Bridge) between Nagore and T.R.Pattinam Railway Stations and the crowd was gathered on and around the track. On seeing the crowd, the driver stopped the train much before the place. Further, based on the inquest and final reports, the police clearly arrived at a conclusion that it was a case of suicide arising out of a family dispute.

5. When the inquest and final report of the police itself states that it is a case of suicide, the Tribunal further scrutinized the report of the DRM, which reads as under:

"b) Discussion on evidence collected by RPF

i) The Original Application categorically claiming that on 19.11.2016, at about 07.30 hrs when the deceased was travelling in Chennai-Karaikal Expresss, had fallen down due to jerk/shake, but is is clarified that before arrival of the train at Karvaikal bridge, the corpse of the victim was found at KM 93/3 (Karvaikal Rly Bridge) between Nagore and T.R.Pattinam Rly. Station. Moreover, the train was stopped well before the SOC. Hence, the allegation in the Original Application is found to be baseless.

ii) The victim was seen alive at his residence by his mother at 04.30 hrs and found dead between two rails at KM 93/3 by Railway authorities at 07.40 hrs.

iii) Since, the body was found middle of the track, it could be rule out that the victim had not travelled by any train.

iv) The case was categorically closed as Suicidal death based on the circumstantial evidence by the I.O J.Jerome Jesmond, SI of Police/T.R.Pattinam/Karaikal and filed final report before the Court of Hon'ble JM-II/Karaikal.

Conclusion:-

Based on the above averments, it is concluded that the act of the victim is a self-inflicted one. Hence, the claim u/s 16 of the Railway

Claims Tribunal Act, 1987 read with Section 123 (c)(2) and 124-A of Railways Act, 1989 may be dealt accordingly."

6. Considering these documents, the Tribunal examined the witnesses. The post-mortem conducted on 19.11.2016 recorded various injuries on the body of the deceased and the cause of the death is "due to intracranial haemorrhage as a result of head injury". The investigation of the witness also reveals that it was not a case of an untoward incident occurred on account of travel in a train but it is a case of suicide. The statement of Guard Keepers given to the Railway Police considered in para 7.9 of the judgment, which reads as under:

"7.9 As per statement of Gatekeeper given to the Railway Protection Force, he observed from the LC gate that train No.16175 stopped at Karuvaikal bridge and sounded horn. At that time some local resident informed him that a male was lying deceased between the Railway track, and he in turn informed the same to Train Halt Agent of T.R.Pattinam Railway Station for further action. The Halt Agent, Shri.I.Kadar Maidine stated that he lodged a complaint with Police Station at T.R.Pattinam. The Loco Pilot of train No.16175 in his statement to Railway Protection Force stated that when the train was nearing Tirumalairayanpattinam (TR pattinam) Railway station, after passing Nagore Railway station, he observed gathering of a few public on the track and stopped the train. He along with Assistant Loco Pilot went to the spot and saw a male dead body lying in the middle of the tract at KM 93/3."

7. On the basis of the evidence pointed out, the body of the deceased was found on the track even before arrival of 16175 Chennai Egmore-Karaikal Express train at the spot and that the train stopped well before the place of incident and passed only after removal of the body, as locals and public were gathered at the place. Thus, the Tribunal arrived an inevitable conclusion that the deceased was not a passenger of Chennai Egmore-Karaikal Express train, and he was not at all a passenger in the said train. Based on these facts and circumstances and considering the reports, the Railway Claims Tribunal arrived at a conclusion that the appellant is not entitled for compensation.

8. This Court do not find any infirmity or perversity as such so as to interfere with the award of the Tribunal and, therefore, the judgment dated 30.11.2018 passed in O.A.No. 78 of 2018 stands confirmed and the civil miscellaneous appeal is dismissed. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ssm
To

1. The Presiding Officer,
Railway Claims Tribunal,
Chennai.
2. The General Manager,
Southern Railway, Union of India Owing
Chennai- 600 003.

+1 Cc to Mr.M.Vijay Anand, Advocate sr 16452.

C.M.A.No. 1999 of 2019

GSM(CO)
SP(15/04/2021)

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