

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No. 950 of 2020

1.Lxmi Bisht

2.Alok

(Rep. By mother and natural guardian

Lxmi Bisht)

3.Savitha

..Appellants

Vs

The Union of India Owning

Southern Railway

Rep. By its General Manager,

Chennai- 600 003.

..Respondent

Appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 12.12.2019 made in O.A.No. 91 of 2019 on the file of Railway Claims Tribunal, Chennai Bench.

For Appellants : Mr.R.Sekaran

For Respondent : Mr.M.Vijay Anand

JUDGMENT

The judgment dated 12.12.2019 passed in O.A.No. 91 of 2019 is under challenge in the present civil miscellaneous appeal.

2. The claimants are the appellants and the claim application was filed on the ground as narrated in the application, which reads as under:

"The deceased was a resident of Khirki area in Delhi. He was a Painter. That on 18.06.2018 the deceased informed his wife and mother that he was going to Chennai for a painting job and left along with his 2 other friends. As the deceased could not find any job in Chennai, planned to return with 1 of his friend Om Prakash. The applicants came to know from the Nellore Railway Police and the co-passenger, that the deceased and his friend by purchasing II class Journey cum Reservation ticket bearing PNR no.476-6005967 dt.21/6/2018 at 9.23 hrs for travel on 21/06/2018 while travelling in Tr.No.12615 Grand Trunk Express from Chennai Central to new Delhi, prior to 22.50 hrs of 21.06.2018 at platform No.2 of Nellore Railway Station, the deceased who had got down for purchase of water bottle, while attempting to re-board the said train which just started from Nellore Railway Station, due to sudden jerk of the train, slipped his legs and accidentally fell down from the moving train, suffered multiple grievous injuries and died at the place of occurrence."

3. The Tribunal adjudicated the issues with reference to the documents and evidence produced by the respective parties to the *lis* and the issues were considered.

4. The Respondent/railways defended the claim on the ground that on a enquiry conducted by DRM/BZA into the alleged incident, it was revealed that TTI/BZA stated that on 21st/22nd June 2018, while he was on duty in various coaches and was informed that one traveller appears to be of unsound mind and shouting, stating that "I will die, leave me" and as such was causing inconvenience/disturbance to the passengers. TTI visited the said coach and noticed that said passengers had a co-passenger's name Om Prakash in berth No.47 and as such informed RPF staff about behaviour of such disturbed person. For some time, he remained silent but when reached Gudur, he again started shouting and causing disturbance. On a written complaint submitted by other passengers, TTI requested the assistance of police personnel at Nellore railway station, next station to the place where he was causing disturbance. When the said train arrived at Nellore, alleged unsound mind person along with co-passenger, got down and the train re-started. In the meanwhile, the deceased person ran on platform, tried to board the running train in same coach, slipped and

fell down on platform and also came within platform and railway track due to which he sustained accidental injuries, due to his own misadventure and criminal act, the victim died, for which, the Railway administration contends that they are not responsible for this act.

5. Based on these defence, the Tribunal considered the documents and evidence. The authority of travel based on PNR ticket is not in dispute. The deceased, causing inconvenience/disturbance to other passengers, had to be handled cautiously, RPF personnel made efforts to counsel him. However, he has re-started the disturbance and further causing nuisance to the other co-passengers. B.Harikrishna, Head Constable/Nellore stated about the deceased being unsound mind person causing disturbance by shouting with his attendant, when the train started from Nellore railway station after its due scheduled halt, due to ACP in coach S-7, train got stopped and in the meanwhile he was underneath the wheels of the train. Considering these facts and circumstances, the Tribunal made a finding that the deceased was of an unsound mind person and the evidence and the deposition of witnesses also confirms the same. The findings of the Tribunal in para 14 and 15 of the judgment are relevant and the same is extracted hereunder:

"14. It is also not in dispute that he had a PNR ticket from Chennai Central to Delhi for 21st June 2018. It means, he just came to the city and left virtually within few hours. As such, when he was shouting and speaking " I will die, leave me" this clearly explained his mental imbalance when no aspect is even pleaded, what has to be highlighted is that he was 32 years old and not a kid or so young, who had no resistance power. Documents placed on record speaks loudly that deceased, despite having counselled by RPF as well as co-passenger, showed any improvement in his behaviour, but on the other hand it lasted just for few minutes. It is not caused by any reasonable person to behave with the public at large.

15. If he was so disturbed for not finding a job immediately after he alighted from the train and remained in the city just for a day to behave in such a childhood fashion, it is undoubtedly true that under the provisions of Railway Act that as per Section 145 as well as 156 of the Railway Act, any passenger who creates nuisance or act of indecency or uses abusive language can be removed from the railway in addition to the forfeiture of pass or ticket with imprisonment also besides imposing a fine. His own act and incident are dispensable for unfortunate incident when he virtually

became of an unsound mind, causing inconvenience to other passengers of the compartment, which in turn, disturbed the peaceful atmosphere and environment in that compartment."

6. In view of the fact that the deceased was of an unsound mind and the said factum was established, the claimants are not entitled for compensation in view of the exclusion clause provided under Section 124A of the Railways Act.

7. This Court do not find any perversity or infirmity as such and, accordingly, the judgment dated 12.12.2019 passed in O.A.No. 91 of 2019 stands confirmed and the civil miscellaneous appeal is dismissed. No costs.

15.03.2021

Index: Yes
ssm

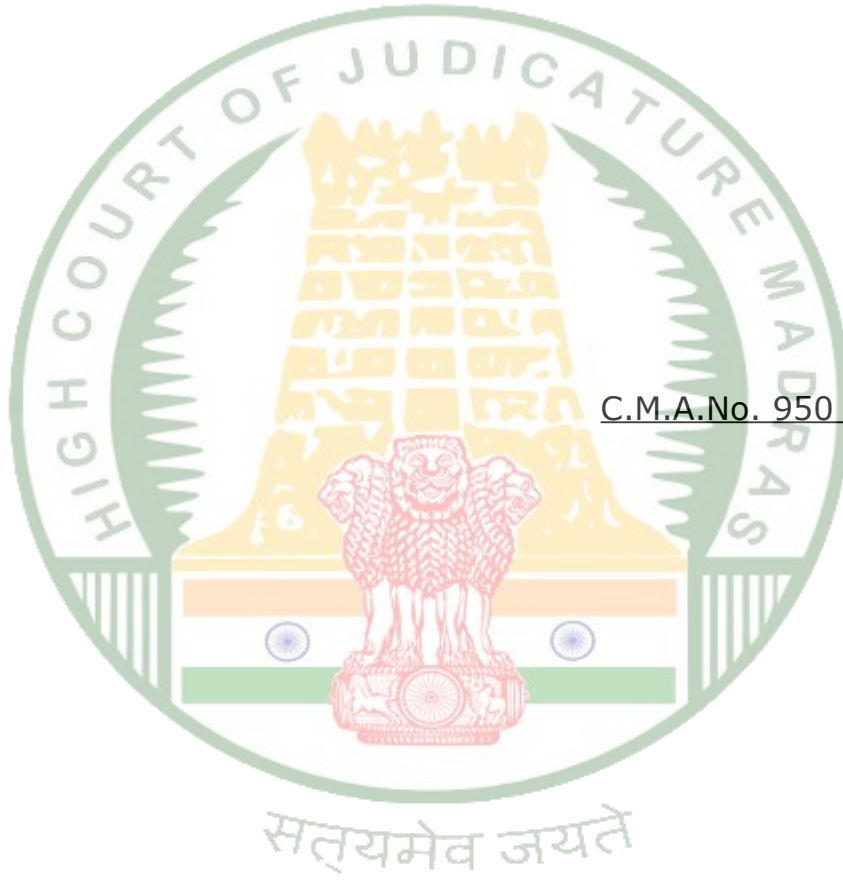
To

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

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S.M.SUBRAMANIAM, J.

(ssm)



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