

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

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

C.M.A.No.2120 of 2019

1.M.Kavitha
2.B.Sudha
3.B.Pavan

..Appellants

Vs.

The Union of India,
Through General Manager,
South Western Railway,
Hubli.

..Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 Railway Claims Tribunal Act, 1987 praying to set aside the judgment dated 10.01.2019 made in O.A.(II - U) No.29 of 2018 by the Hon'ble Railway Claims Tribunal, Chennai Bench.

For Appellants : Mr.R.Sekaran
For Respondent : Mr.G.Venkatesan

J U D G M E N T

The judgment dated 10.01.2019 passed in O.A.(II - U) No.29 of 2018 is under challenge in the present Civil Miscellaneous Appeal.

2.The claimants are the appellants filed an application under Section 16 of the Railways Act, seeking compensation based on the facts that the deceased was a native of Kuppam Village in Chittoor District of Andhra Pradesh State. That on 26.10.2017 the deceased informed his wife that he was going to visit his parents in law at Vellore and left the house. The applicants came to know from the Chittoor Railway Police that the deceased by possessing II Class Express ticket bearing No.55333476 dated 27.10.2017 at 03.11 hours for travel from Jolarpettai to Kuppam, while traveling in the general compartment of any one of the train, prior to 08.00 hours of 28.10.2017, when the said train was proceeding between Mallanur and Kuppam Railway Stations, due to heavy rush, jerk and jolt of the train, accidentally fell down from the running train, suffered injuries of (1) head crushed, (2) bleeding injury on left hand elbow, left shoulder,

left side chest, (3) fracture on left thigh, right leg knee and (4) bleeding injury at the palm and died on the spot.

3. The respondent/railways took a defense and there was no eye-witness with reference to the occurrence and further the appellants would not be able to establish that the deceased was a bonafide passenger. The Tribunal rejected the claim petition mainly on the ground that there was no eye-witness regarding the occurrence and undoubtedly the injuries are grievous and serious in nature which caused the death of the deceased.

4. As far as the travel ticket is concerned, the Tribunal made a finding that the ticket purchased in previous day during early hours at 03.11 on 27.10.2017 for travel from Jolarpettai to Kuppam. Based on the said fact, the Tribunal developed a doubt regarding the bonafide of the deceased passenger. The Tribunal drawn an inference that the deceased was not a bonafide passenger and ticket was not recovered from the deceased. Based on such doubtful circumstances, application was rejected.

5. The copy of the ticket is enclosed, which reveals that the said ticket was undoubtedly issued on 27.10.2017 but the timing mentioned is 03.11 hours. The first investigation report registered in F.I.R.No.78 of 2017 reveals that the date and time of information was 28.10.2017 at 11.30 hours. Therefore, on 27.10.2017 at 03.11 early morning the ticket was purchased and the body was found at 11.30 a.m., on 28.10.2017 and under these circumstances, the purchase of ticket cannot be doubted at all. The time gap between the date of purchase of the ticket as well as the date of F.I.R registered is 8 & ½ hours.

6. Therefore, this Court is of an opinion that the doubt raised in this regard by the Tribunal is unnecessary and would not support the case of the respondent/railways. The facts and circumstances admitted in the inquest report as well as the final report were not at all scrutinized by the Tribunal and the Tribunal proceeded based on the doubt regarding the travel ticket. The final report reveals that the deceased came to Jolarpettai and purchased general ticket from Jolarpettai to Kuppam R.Ss vide ticket No.55333476, during the journey the deceased might have accidentally fell down from the train at KM No. 249/600-700 posts in between Mallanur and Kuppam R.Ss, sustained severe multiple injuries and died.

7. The DRM report also states that the guard or co-passengers are not aware of the incident. Probably the ticket was purchased by the deceased early morning at 03.11 hours and accident would have occurred early morning when there was no sun-light. Therefore, the presumption of DRM report can be rebutted with reference to the time of accident.

8. When the travel ticket was purchased and produced by the appellants and the time gap between the purchase of the travel and registration of F.I.R is 8 & ½ hours, there is no reason to doubt the bonafide of the passenger, who met with an accident and died. The Railway Claims Tribunal rejected the application by developing a doubt regarding the accident and this Court is of the opinion that the other facts narrated in inquest report as well as the final report were not considered by the Tribunal. Even certain benefit of doubt with reference to the evidence available, the benefit of doubt is to be entitled in favour of the claimants as grant of compensation is under welfare legislation.

9. In the present case, the doubt raised by the Tribunal is not in consonance with the facts regarding the details of the traveling ticket and therefore, this Court is not inclined to agree with the findings of the Railway Claims Tribunal.

10. This being the facts and circumstances, the judgment dated 10.01.2019 passed in OA(II-U) No.29 of 2018 is set aside and the Civil miscellaneous Appeal in C.M.A.No.2120 of 2019 stands allowed. The appellants are entitled for a total sum of Rs.8,00,000/- (Rupees Eight Lakhs only) along with the interest at the rate of 6% per annum from the date of passing of the award. The compensation is to be apportioned as under:

(i) The 1st appellant/wife is entitled for a sum of Rs.4,00,000/- (Rupees Four Lakhs only).

(ii) The appellants 2 and 3, daughter and son of the deceased, are entitled for a sum of Rs.2,00,000/- each (Rupees Two Lakhs only Each).

11. The respondent / Railways is directed to deposit the compensation amount of Rs.8,00,000/- (Rupees Eight Lakhs only) along with the accrued interest at the rate of 6% per annum before the Railway Tribunal concerned within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit, the appellants are permitted to withdraw the award amount with accrued interest by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Pns

To

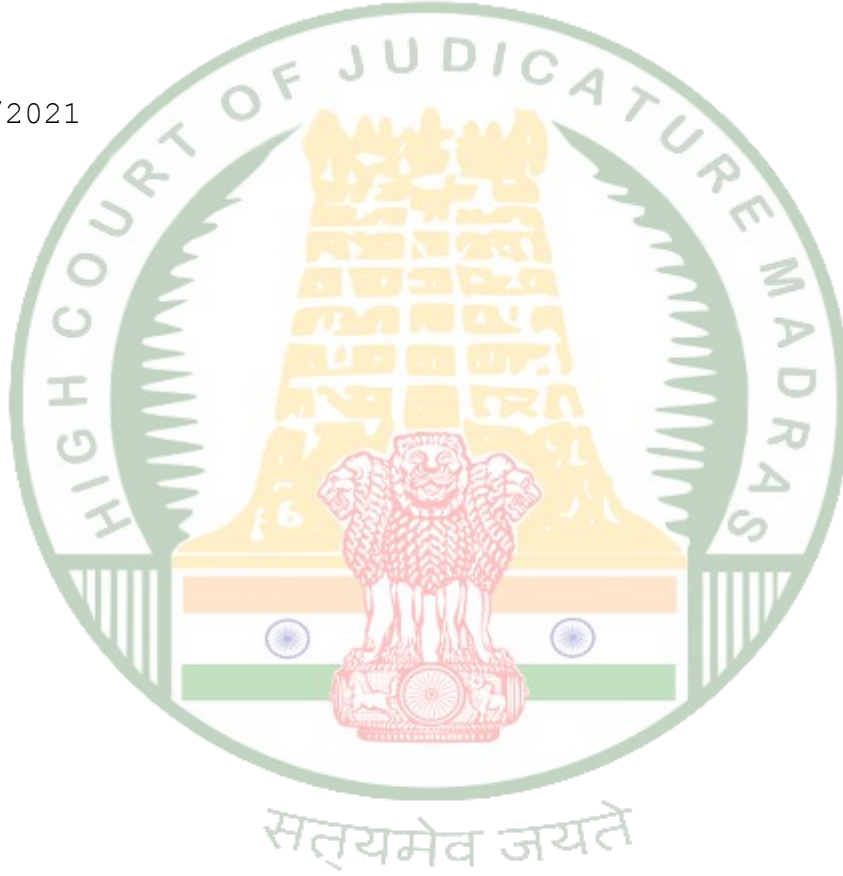
1.The Registrar,
Railway Claims Tribunal, Chennai.

2.The Section Officer,
V.R.Section, High Court, Chennai.

+1cc to Mr.G.Venkatesan, Advocate, SR.No.10182

C.M.A.No.2120 of 2019

AD(CO)
KKV/16/03/2021



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