

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1862 of 2018

1.Easwari

2.Akash (Minor)

3.Abinaya (Minor)

4.Ramachandran

5.Lakshmi

Appellants 2 and 3 are rep.by their
mother and natural guardian, Easwari

.. Appellants

vs.

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

.. Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 23 of
Railway Claims Tribunal Act, against the order dated 02.05.2018,
passed in O.A.(II-U).No.129 of 2017 on the file of the Railway
Claims Tribunal, Chennai Bench.

For Appellants : Mr.S.Parthasarathy
For Respondent : Mr.T.P.Savitha

O R D E R

The order dated 02.05.2018 passed in O.A.(II-U).No.129 of
2017 is under challenge in the present Civil Miscellaneous
Appeal.

2. The appellants are the claimants, who filed an application under Section 16 of the Railways Act before the Tribunal on the ground that on 13.05.2017, the first appellant, her husband and her mother come to Chennai, Egmore for go to Sri Ranganam and purchased train ticket. During the travelling, the husband of the first appellant had accidentally fallen down near Tindivanam Railway Station due to high speed, Jolt and Jerk and sustained grievous head injuries and subsequently, died. A criminal case was registered in Crime No.55 of 2017. Investigations were conducted. The wife of the deceased herself made a statement that her husband was under the influence of alcohol while travelling in the train and she scolded him not to stand nearby door. He had not listened the word of his wife and was sitting nearby door in the running train and fell down and sustained injuries. The statement of the wife of the deceased was considered by the tribunal. The wife was examined as A.W.1 and she deposed as under:

"Chief Examination by Shri.G.Kandan

I have filed my proof affidavit of even date, with copy supplied to counsel for respondent. Contents of which may be read as part of my examination in chief. I pray that documents filed today as well as on earlier occasions, as narrated in my Proof Affidavit, be marked as Exhibits A-1 to A-8.

Cross Examination by: Ms.R.Sathyabama

The incident occurred on 31.05.2017. I know to read and write in Tamil. The Affidavit is signed by me. My husband was a Plumber. I am not an eyewitness to the incident. Co-passenger informed me after certain distance about falling of a person from the train when it was in motion. I pulled the chain to stop the train. After pulling the chain, the Guard came and inquired and we were not able to find my husband hence I was advised to get down at the next station i.e., Tindivanam Railway Station to give a complaint. I have given the oral complaint to the Station Master, which was accepted and FIR was registered on that basis. The Station Master was not knowing Tamil and hence, another person present, who knew the vernacular language taken down the complaint. I have given the complaint stating that my husband was standing near the doorways. I asked him to come inside for which he scolded me and he stood near the doorways. Both the statements made before the Station Master as well as the deposition made today are the factual narration without containing any difference. Statement signed by me on 27.01.2018, filed along with

DRM report bears my signature. In my statement made by me before Station Master as well as written by ASI on 27.01.2018 annexed to DRM report refers that aspect wherein it was also stated by me that on the date of incident the deceased had consumed alcohol. My husband was brought in the next available train. He was taken to the local Hospital in an Ambulance and I accompanied him in the Ambulance to Government Hospital, Tindivanam. Subsequently, my husband was shifted in an Ambulance to JIPMER, Puducherry. Police did not recover anything from my husband. I deny the suggestion that he was not a bona fide passenger and travelled negligently near the doorways and respondent is not liable to pay any compensation. No journey ticket was recovered from him though it was a combined ticket for three adults. My two kids were also travelling with us, who were 1 month and 3 years old respectively. Inquest report filed did not include my name".

3. The Divisional Railway Manager report also relied upon by the Tribunal. As per the Divisional Railway Manager report, the deceased was under the influence of alcohol on the date of travelling. Further, none of the family members holding a valid travel ticket. Even the wife of the deceased and other passengers accompanied could not able to trace any travel ticket and accordingly, the Tribunal arrived a conclusion that they are not the bona fide passengers. Even under Section 124 (exclusion clause), travelling with the influence of alcohol is also a disentitlement for the compensation. The Tribunal elaborately adjudicated the facts and circumstances and rejected the application on the ground that the deceased was under the influence of alcohol and further, the appellants were unable to establish that they are the bona fide passengers.

4. This being the factum, this Court do not find any acceptable ground for the purpose of interfering with the findings of the order passed by the tribunal. Accordingly, the judgment dated 02.05.2018 passed in O.A.(II-U).No.129 of 2017 stands confirmed and consequently, Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssb

To

The Railway Claims Tribunal,
Chennai.

+1cc to M/s.T.P.Savitha, Advocate, S.R.No.10188.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.10269.

C.M.A.No.1862 of 2018

JP-II(CO)
CSR: 09.03.2021



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