

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1970 of 2018

1.Sudha

2.Lakshmi

..Appellants

vs.

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

..Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 23(1) of Railway Claims Tribunal Act, 1987 against the order dated 10.08.2018, passed in O.A.(II-U).No.159 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 10.08.2018, passed in O.A.(II-U).No.159 of 2017 is under challenge in the present civil miscellaneous appeal.

2. The appellants filed a claim petition under Section 16 of the Railways Act claiming compensation on the ground that the husband of the first appellant was staying at Chromepet in the working place. On 19.07.2015, the deceased boarded EMU Train and while travelling, he accidentally fell down from the moving train at Chrompet Railway Station and sustained grievous injuries.

3. The inquest report filed by the authorities reveals that the deceased sustained fatal injuries due to the accident and subsequently died. The Tribunal adjudicated the issues with reference to the documents and evidence. The findings of the Tribunal reveals that the deceased was not a bona fide passenger and an eyewitness (i.e.,) Motorman who had seen the accident

deposed that the deceased sustained injuries while crossing the track. The Tribunal analysed all the deposition of the witnesses as well as the documents filed by the parties. The findings of the Tribunal in paragraph No.6.10 reads as under:

"while analysing the various aspects of the case it is evident that respondent was able to establish through eyewitness, Motorman of train No.40389 and statement of RPF staff, who attended the injured immediately, that deceased while crossing the tracks (trespassing) at Meenambakkam Railway Station at 7.00 pm on 19.07.2015 was hit by said train and after administering first aid they immediately moved him in the same train to Chromepet Railway Station and from there, he was shifted by 108 ambulance to Government Hospital/Chromepet. The timing recorded in the Accident Register of said Hospital that he was admitted there at 07.55 pm is congruent with the stand taken by the respondent. Since the deceased was moved from Chromepet Railway station to Government Hospital/Chromepet by 108 ambulance, it is understandable that in the Accident Register it was wrongly mentioned, by the Hospital staff, as accidental fall from moving train at Chromepet Railway Station. Evidently, the Motorman of the train was an eyewitness and he made entry in Drivers Rough Journal at Meenambakkam Railway Station itself to the effect that a person crossed the track in front of the train. While considering giving credence to the statement of the Motorman, it is to be considered that Motorman/Loco Pilot of trains play a vital role in train operation and are supposed to be always on highest alert compared to all other staff working in Railways. As a part of duty they cover hundreds of kilometres daily and there is no need or reason for them to provide any false information. Hence, there is no reason to disbelieve the evidence furnished by him, especially considering the fact that entry in the Drivers Rough Journal was made immediately after the incident. No efforts were taken by the applicants to dislodge and overlook the unambiguous testimony of RW-1. RPF personnel who attended to the deceased had stated that deceased (then injured) person was not having any travel authority with him."

4. The tribunal, based on the evidence and documents, arrived a conclusion that "it is a clear case of trespassing by the deceased on to the track & getting hit by train, which was witnessed by the Motorman of the train, who stopped the train immediately, retrieved him from under the train with the help of Guard, RPF Staff & Pointsman, rendered first aid and moved him in the same train to Chromepet Railway Station for admitting him to

Government Hospital/Chromepet". When all these employees together attended the scene of occurrence and made an arrangement to shift the injured person to the Government hospital through 108 ambulance, this Court do not find any infirmity as such in respect of the judgment passed by the Tribunal. Thus, the judgment dated 10.08.2018, passed in O.A.(II-U).No.159 of 2017 stands confirmed and consequently, Civil Miscellaneous Appeal stands dismissed. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ssb

To

The Railway Claims Tribunal, Chennai

+1 CC to M/s.T.P. Savitha, Advocate sr 10187

+1 CC to Mr.S.Parthasarathy, Advocate sr 10267.

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JPII(CO)
SP(09/03/2021)