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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.03.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3023 of 2014

and

M.P.No.1 of 2014

The Union of India Owning,
Southern Railway,
Rep. by its General Manager,
Park Town,
Madras-600 003.

... Appellant

Vs.

1.S.Gnanaguru
2.G.Valarmath
3.G.Priya

... Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 23 of the Railway Claims Tribunal Act, against the judgment passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U) No.241 of 2013 dated 03.06.2014.

For Appellant : M/s.T.P.Savitha

For Respondents : M/s.D.Dhanam

J U D G M E N T

The appellant herein is the respondent in O.A.(II-U) No.241 of 2013 filed by the claimant, claiming compensation for the fatal death of G.Saravanan who is the son of the claimants 1 and 2 and brother of the 3rd claimants under Section 123(c)(2) and 124-A of Railway act, 1989.

2. After full trial the Tribunal passed an award dated 03.06.2014, for a sum of Rs.4,00,000/-. Aggrieved by the order the Railway has preferred this appeal.

3. The question of law that arise for consideration is as to

"whether the Tribunal failed to appreciate the fact that the deceased was not a bona fide passenger nor



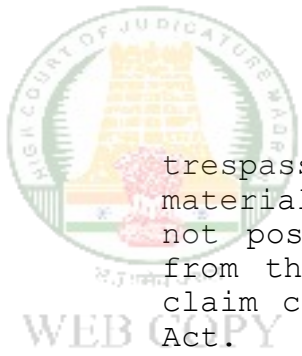
the accident comes within the definition of untoward incident ?”

4. The fact reveals that the deceased Saravanan who is the son of the claimants 1 and 2, was a college student and a part time worker. He travelled from Coimbatore to Gudiyatham on 12.02.2013 in a train and fell down between Kavanoor and Virinchipuram Railway station due to heavy rush in the train and died on the spot itself. So the claimants had preferred the claim application before the Tribunal. The Railway authorities contested the claim petition by stating that he was not a bona fide passenger and the alleged incident was one other than fall from the train for which the respondent is not liable to pay the compensation.

5. Before the Tribunal, to prove their claim on the side of the claimants, the mother was examined as A.W.1 and Exh.A-1 to Exh.A-7 were marked. On the side of the Railways, a Report of the Divisional Railway Manager / Chennai Division dated 11.04.2014 was marked and V.Shivakumar, IO was examined as R.W.1.

6. At the time of the arguments, the learned counsel for the Railways submitted that the deceased was not a bona fide passenger on the date of the alleged accident. To prove that he is a bona fide passenger, the respondents / claimants have not produced a valid ticket, but the Tribunal without appreciating this fact erroneously awarded the claim in favour of the claimants. Hence, he prayed to set aside the same by allowing this appeal.

7. On a perusal of the records it is proved that no ticket was recovered from the body or from the occurrence place. But on considering the other documents, as per the FIR, one male body aged around 25 years found on up line between Kavanoor and Virinchipuram. In the inquest report as per the V.Shivakumar, IO statement, the victim might have fallen down from any one of the running train in between Katpadi and Gudiyattam and sustained fatal injuries and died. As per the final report the victim was studying in a college and travelled from Coimbatore to Gudiyatham in one of the trains and fell down from the running train and died on the spot. The final report was submitted by the Inspector of Police, Railways. Admittedly no ticket was collected from the body of the deceased and the occurrence took place in an interior place while so it is not possible to collect the ticket from the body of the deceased. But the claimants prima facie proved that on the date of the accident the deceased travelled in the train, accidentally fell down and died on the spot itself. But the Railway Authorities contended that he might have died due to self-inflicted injuries or while



trespassing the Railway track. To prove this aspect there is no material evidence on the side of the Railway Authorities. It is not possible to keep the Railway ticket or collect the ticket from the dead body. The respondents /claimants are entitled to claim compensation under Section 123(c) (2) and 124-A of Railway Act.

8. Based upon all the facts and circumstances, the Tribunal has rightly awarded the compensation of Rs.4,00,000/- in favour of the respondents herein and the order passed by the Railway Claims Tribunal, Chennai Bench, is confirmed.

9. As per the notification dated 22.12.2016 published in the Gazette of India, Extraordinary - Ministry of Railways (Railway) amendments were brought to Rule 3 of the Railway Accident and Untoward Incidents (Compensation Rules) 1990 by inserting Sub-rule (2). As per the amendment, the second proviso to Sub-rule (3) was amended by substituting the words "Four Lakhs" into "Eight Lakhs". Thus as per the amendment a Victim of Untoward Railway accident is entitled for compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) from 01.01.2017. In this case the accident occurred before 01.01.2017 and therefore, the respondents / claimants are entitled for a total compensation of Rs.8,00,000/- along with interest at the rate of 9% per annum from the date of petition.

(i) the 1st and 2nd respondents/ parents of the deceased are entitled for a compensation of Rs.6,00,000/- (Rupees Six Lakhs Only).

(ii) the 3rd respondent / Sister of the deceased is entitled for a compensation of Rs.2,00,000/- (Rupees Two Lakh Only).

11. The appellants are permitted to withdraw their respective portion of the compensation by filing an appropriate application and the payments are to be made through RTGS.

12. Accordingly, the Civil Miscellaneous Appeal is dismissed. The respondent/Railway is directed to deposit the award amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of the judgment. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



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To

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The Railway Claims Tribunal,
Chennai.

+1cc to M/s.T.P.Savitha, Advocate Sr.21261

C.M.A.No.3023 of 2014
and
M.P.No.1 of 2014

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srg 06/08/2021