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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.3032 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.M.Thangavel

2.T.Malarkodi

.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 23 (i) of the Railway Claims Tribunal Act 54 of 1987, pleased to set aside the final order of the Railway Claims Tribunal, Madras Bench in O.A.(II-U)No.310 of 2013 dated 15.07.2014.

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

For Respondents : Mr.S.Parthasarathy

J U D G M E N T

The appellant/Railway Authority preferred this appeal against the order passed in O.A.No.310 of 2013, filed by the respondents/claimants claiming compensation for the fatal death of their son viz., Natarajan, who accidentally fell down from the moving train and died on 17.08.2013. After full trial, the Tribunal passed the award against the Railway Authority. Aggrieved by that, the Railway Authority preferred this appeal.



2. Point for consideration:

Whether the Tribunal failed to appreciate the fact that the incident has happened when the victim slipped down from the moving train and admittedly got injury, which happened due to the own negligence and fell ill in nature, but without considering the same, the award is passed under Section 124A (b) of the Railways Act 1989?.

3. The fact reveals that the claimants are the parents of Natarajan, who intended to travel from Virudhachalam Railway Station to Chennai, boarded in Guruvaiyur express on 14.08.2013. After purchasing the train ticket, since the train started moving, he had slipped and fell down from the moving train and he died on 17.08.2013. So, the parents filed the above claim application.

4. But as per the contention of the Railways, the deceased possessed only a platform ticket bearing ticket No.417175582 taken at Virudhachalam Railway Station on 14.08.2013 and as per the inquest and final reports, the deceased had fallen down while boarding train No.16128, which is not permissible in law. The claimants are not entitled to claim compensation and without appreciating this fact, the Tribunal awarded the claim, so he prayed to set aside the award passed by the Tribunal by allowing this appeal.

5. Per contra, the learned counsel for the respondents/claimants submits that the passenger included a person, who purchased a valid platform ticket with any date and becomes a victim of untoward incident as per Section 124-A of the Railway Act. Even after assuming that he possessed valid passenger ticket is a bonafide purchaser and the claimant is entitled to claim compensation.

6. On perusal of the records, it is seen that the Railway Authority has not proved that the victim possessed only the valid platform ticket at the time of accident. Even assuming that he possessed platform ticket, he also comes under the definition of the passenger.

7. The facts proves that he fell down from the moving train, but as per the contention of the Railway Authority, when the victim attempted to get into the moving train, he slipped down by his own negligence act and the accident was happened. To prove this aspect, there is no material evidence, on the side of the respondent, but as per the inquest report and he attempted to board in the Guruvayur train and he fell down and sustained injuries. When the deceased tried to board the train No.16128, Guruvayur Express with the platform ticket, he might have accidentally fallen down from the train and sustained



grievous injuries and this case was closed as accidental death.

8. The learned counsel for the respondent submits that even the victim possessed valid platform ticket and his death also comes under untoward incident under Sections 123 (c) (2) and 124-A of the Act.

9. The learned counsel for the appellant relied upon the decision of the Delhi High Court in the case of M.Mukesh Rani and others Vs. Union of India [(2017) ACJ 2432], in FAO.No.378 of 2009, dated 03.01.2017, which is squarely applicable to the facts of the case. All these facts were rightly appreciated by the Commissioner of Labour, which is not inturb by this Court. On the other hand, the appellant not proved that the accident had happened due to the own negligence of the deceased.

10. 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.

11. 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 respondent/ father of the deceased is entitled for a compensation of Rs.4,00,000/- (Rupees Four Lakhs Only).

(ii) the 2nd respondent / mother of the deceased is entitled for a compensation of Rs.4,00,000/- (Rupees Four Lakhs Only).

12. The claimants/respondents are permitted to withdraw their respective shares of the compensation along with accrued interest by filing an appropriate application and the payments are to be made through RTGS.

13. Accordingly, the Civil Miscellaneous Appeal is



dismissed. The appellant/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.

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Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
The Railway Claims Tribunal,
Chennai Bench. Chennai.
2. The Section Officer
VR Section,
High Court, Madras.

+1cc to Mr.M/s.T.P.Savitha, Advocate, S.R.No.21263

+1cc to Mr.Mr.S.Parthasarathy, Advocate, S.R.No.21337

C.M.A.No.3032 of 2014

GMI (CO)
CT(04/08/2021)