

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2021

CORAM:

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

C.M.A.No.743 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/
Respondent

Vs.

N.Sasi

.. Respondent/
Appellant

PRAYER : Civil Miscellaneous Appeal is filed under Section 23 of the Railway claims Tribunal Act 54 of 1987, pleaded to set aside the final order of the Railway Claims Tribunal, Madras Bench dated 07.05.2013 in O.A.(II-U) No.357 of 2012.

For Appellant : M/s.T.P.Savitha
SSC for Railway
For Respondent : M/s.DR.Padma

J U D G M E N T

Appellant herein is the respondent in O.A.(II-U) No.260 of 2013 before the Railway Claims Tribunal, Madras Bench. The said application was filed by the respondents / wife of the deceased 'Narayanan' claiming compensation for the fatal death of her husband, who died due to the accident and had fallen and was hit by the train on 12.09.2011.

2. After full trial, the Tribunal awarded compensation to the respondent herein and her minor children. Aggrieved by the said awarding compensation, Railway Authority had preferred this appeal.

3. The learned counsel for the appellant / respondent before the Tribunal contended that the deceased was a tea sales man at Madurai Junction, and while he was trying to board inside the train in the early morning at Railway station, Madurai on 12.09.2011, due to the heavy rush, he was not able to get inside the compartment and due to push and pull of the passengers he had fallen down at Point No.117, pierced by an iron rod into his head causing cerebral injury and died on the spot. The respondent, claiming as the legal heir, wife of the deceased / petitioner before the Tribunal applied for the compensation from the Railway Authority. But the Railway Authority totally denied the alleged accident and contended that the deceased would have died either due to sale of tea from Platform No.1 to Platform No.2 or while attending nature's call, at the time he was hit by the train, resulting in piercing of an iron rod at point No.117 and died on the spot. So they claimed that the accident was happened due to the negligence of the deceased and not by the Railway Authorities. To prove the claim of the respondent, she examined herself as A.W.1 and there is no oral evidence on the side of the respondent and six documents were marked as Ex.A.1 to Ex.A.6 on the side of the respondent. Report of Divisional Railway Manager / Madurai Division has been marked as Ex.R.1. Based on the oral and documentary evidence, the Tribunal itself agreed with the defence taken by the Railway Authorities, allowed the application and awarded compensation of a sum of Rs.4,00,000/-. Aggrieved by the same, the Railway Authority had preferred this appeal.

4. On a perusal of the records, it is seen that, on the side of the respondent / applicant A.W.1 was examined, Exh.A-1 to Exh.A-6 were marked and on the side of the Railway, R.W.1 was examined and the Report of the Divisional Railway Manager (DRM)/ Madurai Division was marked as Ex.R.1 before the Tribunal.

5. It is the case of the respondent herein that the deceased was a tea vendor in the Railway station of the Madurai junction, either at the time of selling the tea or while attending nature's call and during that process, he might have accidentally fallen down and hit by the train, resulting in piercing of an iron rod, thereby death might have caused to him and not by the negligent act of the Railway Authorities, for which the respondent had relied on the report Ex.R.1. Admittedly, there is no oral evidence on the side of the Railway Authorities to establish that the deceased had accidentally fallen down and hit by the train resulting in piercing of an iron rod. The report Ex.R.1 also reveals that it was submitted by the Authorities in the year 2013, nearly 3 years after the accident.

6. On a perusal of the report at page 31 of the typed set of papers, filed before this Court, it reveals that 3years from the date of accident, on 30.01.2013 the report was submitted by the Divisional Railway Manager, Madurai. As per the report, due to the negligence and carelessness of the deceased, it had prompted his death, thereby the Railway Authorities claimed that Railway is not responsible.

7. As discussed above, there is no oral evidence to prove this aspect on the side of the Railway Authorities and that there is no satisfactory explanation offered for the inordinate delay in submitting the said report Ex.R.1.

8. But immediately, after the said accident the respondent herein preferred an F.I.R, and as per that, the deceased was found dead at Point No.117 and died of the head injuries and the Ex.R.1 report also confirmed this fact. The Railway Authorities admitted that the deceased was a tea sales man, though his wife contend that her husband travelled in the train on the day, but her evidence and documents reveals that he was a tea sales man in the Railway station, Madurai junction, and on the day of occurrence, early morning, while he attempted to sale the tea inside the train, due to push and pull, he has fallen down and sustained head injury and died on the spot itself. The Tribunal rightly concluded that too much technicality should not be followed and the same should be in a liberal and wider interpretation regarding the death of the deceased.

9. The Tribunal rightly relied on the decision of the Hon'ble Supreme Court reported in (2008) 4 MLJ 323 (SC) Union of India v. Prabhakaran Vijaya Kumar and others, wherein it was held that provision for compensation in the Railway Act is a beneficial piece of legislation, it should receive a liberal and wider interpretation and not a narrow and technical one. The Apex Court has also further held that 'it is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made, should be preferred and the Court went on to hold that beneficial or welfare statutes should be given a liberal and not literal or strict interpretation. Therefore, considering all the facts and law, the Tribunal rightly awarded the compensation to the respondent herein. The Railway Authorities had not proved their defence that due to his own negligence, the death of the deceased had been caused. The Tribunal rightly concluded this fact which does not warrant any interference by this Court.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed, and the impugned order of the Railway Claims

Tribunal, Madras Bench is confirmed. Hence, the appellant/ Railway is directed to deposit the award amount, less the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of the judgment, failing which the respondent is entitled for the interest at the rate of 7.5 % from the date of accident till the date of realization. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rri

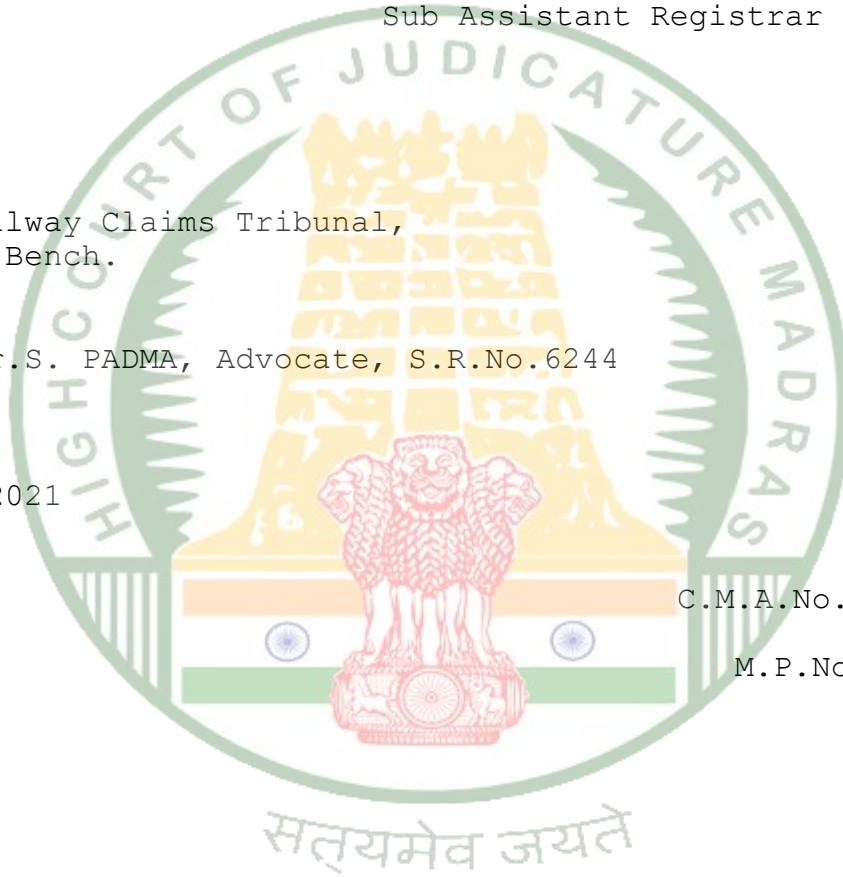
TO

1. The Railway Claims Tribunal,
Madras Bench.

+1cc to Mr.S. PADMA, Advocate, S.R.No.6244

PA (CO)
SM/26/02/2021

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