

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 19.02.2021  
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2957 of 2019

Sekar

..Appellant

Vs.

The 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, 1987 praying to set aside the order dated 26.04.2019 passed by the Railway Claims Tribunal, Chennai Bench in OA (II-U) No.122 of 2018, granting an award for the statutory compensation of Rs.8,00,000/- with interest at 12% p.a., from the date of filing of the claim application viz., 16.07.2018 till the date of payment and the costs of the proceedings.

For Appellant : Mr.R.Sekaran

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

J U D G M E N T

The judgment dated 26.04.2019 passed in OA (II-U) No.122 of 2018 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the claimant and the appeal is filed based on the following facts that the deceased was a native of E.Ramanathapuram Village of Lalkudi Taluk of Trichy District. He was unemployed. That on 23.07.2017 in the night, he informed his father that he was going to Chennai for an interview for a job at Singapore and left the house. The applicant came to know from the Virudhachalam Railway Police that the deceased, after attending the interview, in order to return, by purchasing unreserved ticket on 24.07.2017 at about 09.30 p.m. boarded in Rockfort Express and traveled in a general compartment. Prior to 03.00 hrs of 25.07.2017 when the train was proceeding between Sillakudi and Kallagam Railway Stations at KM 282/00-01, due to speed, jerk and jolt of the train, the deceased accidentally fell down from the running train, suffered grievous head injury causing skull breakage and heavy discharge of blood, died at the place of occurrence. The death was noticed by the SSE/P way of Lalkudi R.S and reported for further action. It was an untoward incident. The II class ticket purchased by the deceased for his travel from Chennai to Trichy was said to have lost at the time of

shifting him to hospital.

3. The Tribunal adjudicated the issues with reference to the documents and evidences. The Tribunal considered the contradictions in factual events and arrived a conclusion that the appellant / claimant had not established that the deceased was a bonafide passenger and further not established that an untoward incident within the meaning of the Railways Act. The factual contradictions lead to serious doubt regarding the untoward incident and accordingly, the Tribunal rejected the application.

4. The learned counsel for the appellant made a submission that the inquest report reveals that the accident occurred. The final report also states that the accident occurred due of falling down from running train. The postmortem report also reveals that the deceased sustained fatal injuries and died. Therefore, the Tribunal committed an error in rejecting the application.

5. The learned counsel for the respondent / railways even raised a doubt regarding the Final Investigation Report registered. As per the copy of the F.I.R, it was registered on 25.07.2017 at 03.00 hrs. However, contents of the F.I.R reveals that the information itself was given by one Sekar on 26.07.2017 at about 18.00 hrs. Thus, there is a serious doubt about the registration of F.I.R in accordance with the facts and circumstances. Even assuming that the date is mistakenly stated as 26.07.2017, contents of the F.I.R reveals that the father of the deceased himself found body of his son only on 26.07.2017 at about 03.00 hrs. Entire reading of the F.I.R itself reveals that the contents recorded is improper and therefore, there is a serious doubt even in registration of F.I.R by the Police. The F.I.R as well as the contents in the F.I.R raised a serious doubt and therefore, this Court cannot be trusted upon the genuinity of F.I.R with reference to the facts and circumstances.

6. Mere inquest report alone cannot be relied upon to arrive a conclusion. Inquest Report as well as Final Report must be corroborated with the other evidences as well as the facts and circumstances. The Tribunal considered all the documents as well as the deposition of the witnesses. The findings of the Tribunal reveals that the contentions of the appellant/claimant are unable to believe in view of the fact that the deceased had taken the train ticket on 24.07.2017 from Chennai for his travel to native village. If he had undertaken such a journey, the body would have been found lying at the place where it was later found right from 03.00 hrs. When the train had passed Lalgudi, it is most unlikely that the Railway Staff, who was doing patrolling duty did not see the dead body the whole of 25.07.2017 and even the telephone details are unable to be verified. Therefore, the Tribunal arrived a conclusion that the unusual incident that the body has not been noticed during the whole day on

25.07.2017 and seen only by the noon of 26.07.2017. Even the tickets were also not retrieved.

7. This being the factum, the Tribunal considered the principles laid down by the Hon'ble Supreme Court of India in the case of Union of India vs Rina Devi and rejected the application. Thus, this Court do not find any perversity or infirmity as such in the finding of the Tribunal.

8. Accordingly, judgment dated 26.04.2019 passed in O.A. (II-U) No.122 of 2018 stands confirmed. Consequently, C.M.A.No.2957 of 2019 stands dismissed. No costs.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The General Manager,  
Union of India owning,  
Southern Railway, Chennai - 600 003.

2. The Railway Claims Tribunal, Chennai Bench.

+lcc to M/s.T.P.Savitha, Advocate SR.No. 10189

C.M.A.No.2957 of 2019

A.SK(18.03.2021)

सत्यमेव जयते

WEB COPY