

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.02.2021
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.1268 of 2017

S.Revathi

... 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 24 of Indian Railways Tribunal Act, against the judgment dated 24.11.2015 made in O.A.(II-U) No.293/2014, on the file of the Railway Tribunal, Chennai Bench.

For Appellant: Mr.V.K.Rajagopalan for
Mr.M.Selvam

For Respondent: Mr.M.Vijay Anand

J U D G M E N T

The judgment dated 24.11.2015 made in O.A.(II-U) No.293/2014, on the file of the Railway Tribunal, Chennai Bench., is under challenge in the present civil miscellaneous appeal.

2. The appellant claimant filed an application under Section 16 of the Railways Act seeking compensation on the ground that her husband on 14.12.2013 at about 22.00 hours, while travelling in a train towards Chennai Central, had accidentally fallen down from running train between Ambattur and pattaravakkam Railway Stations at Km14/13A-15A upfast line. He sustained with head crushed and brain comes out, body cut along with chest, right shoulder cut off and fracture of both legs and died at the place of accident.

3. An FIR was registered and postmortem certificate as well as the death certificate were marked on the side of the appellant claimant. Issues were framed by the Tribunal and adjudication was proceeded on the basis of the documents and evidences. The Railway Tribunal arrived a conclusion that the appellant claimant has not established that the deceased was a bonafide passenger who travelled in the train. Therefore, the

claim petition was dismissed. When the claimant has not established the factum regarding the bonafide passenger at the first instance, then the claim petition deserves no further adjudication for grant of compensation.

4. The learned counsel for the appellant reiterated that the appellant claimant has produced the copy of FIR, inquest report and postmortem report, which reveals that the deceased died due to the train accident and the body was recovered from the railway track. Therefore, the accident occurred in the train and the appellant is entitled for compensation.

5. The learned counsel for the respondent disputed the contention by stating that even in the application, the appellant has not stated anything regarding the details of the train as well as the manner regarding the travel by the deceased in the train. Thus, the facts narrated in the application itself created a doubt regarding the genuinity of the deceased as a passenger. Therefore, the Tribunal is right in rejecting the application. The Tribunal interpreted the provisions of Section 123 of the Railways Act, 1989 and further arrived a conclusion that the appellant claimant has not established that the deceased was a bonafide passenger and therefore, the claimant is not entitled for compensation.

6. This Court has considered the statement of one Mr. Sathesh, son of Madhavan, Constable, Villivakkam. In his statement, he has categorically stated that he conducted an enquiry nearby the accident spot and through enquiry with the neighbouring persons, he came to understand that the deceased was residing adjacent to railway track at PVM Road over bridge and his name was Selvaraj and while proceeded for nature's call during 22.00 hours, more specifically, while crossing the railway track, he was hit by the train and his body became two pieces.

7. When an enquiry was conducted by the Railway Police, by examining the neighbours who were residing nearby the house of the deceased, this Court is of the opinion that no further documents are required to arrive a conclusion that the deceased was not a bonafide passenger. This apart, the manner in which the accident occurred and the body cut into two pieces, there is no reason to arrive a conclusion that the deceased fell down from the running train. It is an improbable circumstance and therefore, this Court has arrived a conclusion that the deceased died while crossing the railway track. Accordingly, the findings of the Tribunal is in consonance with the documents and evidences. Further, the appellant claimant has not established at the first instance that the deceased was a bonafide passenger

and was travelled in a train and fell down from the running train.

8. Thus, the award dated 24.11.2015 made in O.A.(II-U) 293/2014 is confirmed. Consequently, C.M.A.No.1268 of 2017 stands dismissed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

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To

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

2.The Registrar
Railway Tribunal,
Chennai Bench.

Copy to
The Section Officer
VR Section
High Court Madras

+1 cc to Mr.V.K.Rajagopalan Advocate sr8142
+1 cc to Mr.M.Vijay Anand Advocate sr7934

C.M.A.No.1268 of 2017

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