

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.03.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No. 1659 of 2017

K.Veerasamy

..Appellant/Appellant

Vs

The Union of India Owning
Southern Railway
Rep. By its General Manager,
Chennai- 600 003.

..Respondent/Respondent

Appeal filed under Section 23(1) of the Railway Claims Tribunal Act, against the order passed by the Railway Claims Tribunal in O.A.(II.U) No.093 of 2016 dated 28.04.2017.

For Appellant : Mr.S.Parthasarathy

For Respondent : Mr.M.Vijay Anand

JUDGMENT

The judgment dated 28.04.2017 passed in O.A.No. 093 of 2016 is under challenge in the present civil miscellaneous appeal.

2. The claimant is the appellant, who, filed an application under Section 16 of the Railways Act seeking compensation on the ground that on 01.07.2016 afternoon, the appellant left his house for Pondicherry with a valid train ticket from Villupuram to Pondicherry. He boarded the passenger train at Villupuram Railway Station. While travelling in the said train, he had accidentally fallen down from the running train in between Kozhianur and Valavanur Railway Station due to heavy crowd in the said train as a result of which he sustained head injury, multiple fracture and injuries all over the body. With the help of co-passenger, 108 ambulance was called and was sent to Government hospital, Villupuram and thereafter transferred to MIOT Private Hospital, Chennai, where he took treatment as in-patient.

3. The Railway Claims Tribunal adjudicated the issues with reference to the documents and evidence. The appellant claimed to establish the incident as an untoward one. As there was eye witness, the co-passenger also stated that the appellant sustained injuries. Thus, the untoward incident was established before the Railway Claims Tribunal. However, there was a clear finding that the appellant was travelling in an intoxicated mood and, therefore, he is not entitled for compensation. The Tribunal considered the DRM's report wherein it is mentioned about the discrepancy in the travel ticket No. 97846550 mentioned in O.A. and the copy of the journey ticket No. 97646550 filed by the application. Inasmuch as the variation is a single middle digit only and the DRM report has also clarified that the ticket was produced and generated at Villupuram railway station on 01.07.2016 at 14.18 hrs for an adult to travel to Pondicherry, the alleged discrepancy in ticket number could be on account of oversight. The Railway Claims Tribunal made a finding incidentally that the appellant who himself a police personnel has produced a copy of a journey ticket certified by police is also taken note of. However, the real issue for consideration is to determine whether the applicant had let in credible evidence to establish whether he had actually travelled by the train and sustained injuries while falling from the train in an untoward incident. In this regard, the Tribunal considered the statutory investigation report of the DRM again. The report of the Chief Booking Supervisor, Villupuram and Sr. Section Engineer (Carriage & Wagon), Villupuram, the following facts have been brought out:

- "(i) for T.No.56863 Villupuram - Pondicherry passenger, only 30 tickets were issued on 01.07.2016.
- (ii) T.No. 56863 had a composition of 8 coaches with total seating capacity of 608. Thus on an average, less than 4 passengers would have occupied the afternoon local train. Therefore, the applicant's narration of travelling in a crowded train is unconvincing."

4. However, the Tribunal considered the narration of facts by the co-passenger with reference to the facts stated in the application by the appellant and in that regard, it is relevant to record para 6.6 to 6.8 of the findings in the judgment passed by the Railway Claims Tribunal, which is extracted hereunder:

"6.6 Though, initially in the OA applicant stated that with the help of a co-passenger, he was sent through 108 ambulance to hospital, subsequently, in the affidavit, he averred that it was with the help of the public. In this connection, statement of one Palanivelu annexed

to DRM report indicates that on 01.07.2016 at about 2.45 pm he saw an injured person by the side of the track with bleeding injuries on his head and right hand and bandages also found on the hands for old injuries and he was smelling of alcohol. He has also mentioned his cell number from which he had contacted 108 ambulance.

6.7 The applicant during cross-examination stated that he did not know who had rescued him from the incident spot. The A.R. copy issued at Govt. Medical college on 01.07.2016 at 4 p.m. indicates that the injured was drowsy and only laceration, contusion and abrasions were recorded. It is also recorded that the injured was brought by Mahalakshmi (wife). As such it is clear that the applicant had not fully disclosed the sequence of events.

6.8. The inescapable inference from the above is that the applicant's deposition lacks credibility and he has not established the journey and fall from the said train. Thus, we hold that this is not a fit case for granting compensation under Section 123(c) (2)."

5. In view of the fact that it was established that the appellant sustained injuries due to intoxication and even the travel was not established beyond doubt, the Tribunal is right in rejecting the application and as per Section 124(A) (d) of the Railways Act the injuries sustained due to intoxication is an exclusion clause for grant of compensation.

6. Thus, the judgment dated 28.04.2017 passed in O.A.No.093 of 2016 stands confirmed and the civil miscellaneous appeal is dismissed. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar

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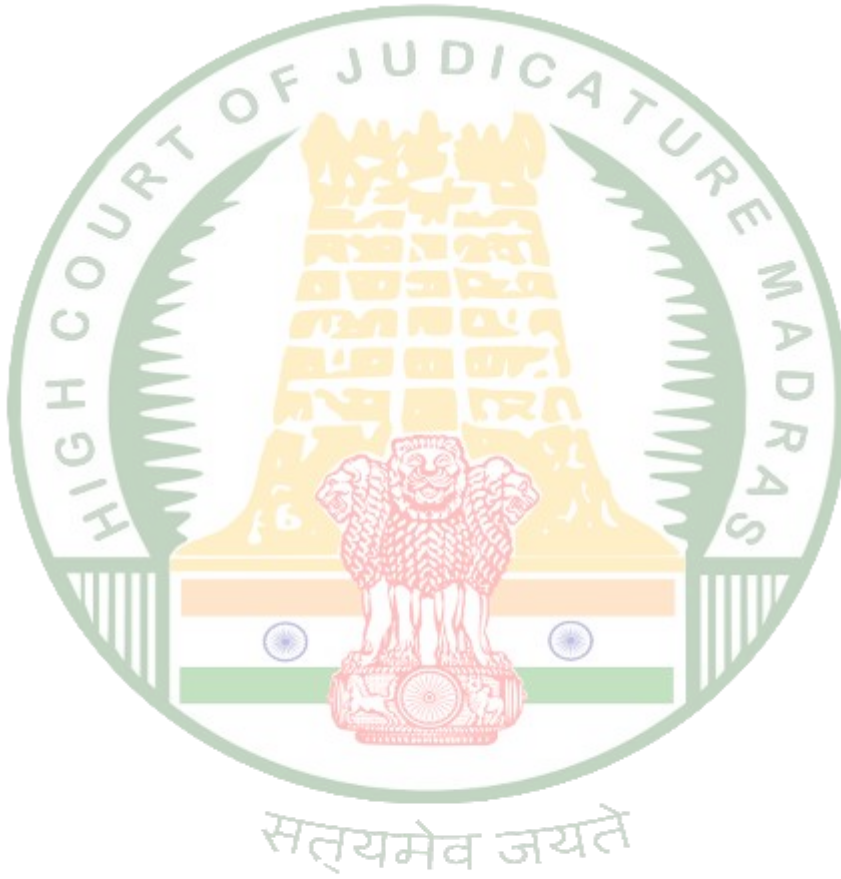
1. The Presiding Officer,
Railway Claims Tribunal,
Chennai.

2. The General Manager,
Southern Railway,
Chennai- 600 003.

+1cc to M/s.M.Vijaya Anand, Advocate, sr no.16449
+1cc to M/s. S.Parthasarathy, Advocate, sr no.16514

C.M.A.No. 1659 of 2017

AAB (CO)
RMP (16/04/2021)



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