

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1711 of 2017

J.Syamalamma

..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 the Railway Claims Tribunal Act, 1987 against the judgment dated 18.08.2015 made in O.A.(II-U) No.146/2014 by the Railway Claims Tribunal, Chennai Bench.

For Appellant ... Mr.R.Sekaran

For Respondent ... Mr.V. Venkatesan

JUDGMENT

The judgment dated 18.08.2015 passed in O.A.No.146 of 2014 by the Railway Claims Tribunal is under challenge in the present civil miscellaneous appeal.

2. The grounds relied upon by the appellant to set aside the judgment of the Railway Claims Tribunal are that the factum regarding the accident was established by the appellant. The inquest report also reveals that the accident occurred due to falling down from the running train. However, the final report also states that the deceased had fallen down from the running train and sustained fatal injuries and died on the spot.

3. Relying on the said fact, the learned counsel for the appellant reiterated that the death occurred due to the accident in a running train and, therefore, the Railway Claims Tribunal, ought to have granted compensation to the appellant, who is the mother of the deceased.

4. The facts in nutshell as narrated in the application filed under Section 16 of the Railways Act states that the deceased was a resident of Chennuru Village, Nellore District.

He was working as Store in-charge in a hotel at Nellore town. On 26.6.2013, the deceased had informed that he was going to Tirupati. The appellant came to know from the Gudur Railway Police that prior to 8.30 hours, on 27.6.2013, the deceased while travelling in one of the train between Gudur and Kondagunta Railway Stations, due to heavy rush, speed and jerk and jolt of the train, accidentally fell down from the running train and suffered vital injuries and died.

5. The Railway Claims Tribunal adjudicated the issues with reference to the documents and evidence produced. The report produced by the applicant was found to be irrelevant and was not connected with the train in which the deceased travelled and died. Therefore, the Tribunal has made a finding that no ticket for the travel from Nellore to Tirupati had been produced at any such of the proceedings before the Tribunal. The findings of the Tribunal, in this regard, in paragraph 8 of the judgment, are relevant, which reads as under:-

"8. We have given out thoughtful consideration to the entire matter. As far as the first issue whether the deceased was a bonafide passenger is concerned, we may observe that no ticket for the journey from Nellore to Tirupati has been produced at any stage of the proceeding. As per the applicant's proof affidavit dt.27.10.2014 the deceased has informed her over phone that he was going to Tirupati. However his body was found between Gudur and Kondagunta Railway stations, which is an entirely opposite route. If he was working as Stores-in-charge at a hotel, Nellore and going to Tirupati as stated by her vide para 4 of the affidavit, then Gudur Railway station do not come into picture at all. The ticket recovered from deceased's body as highlighted by inquest report is dt.25.06.2013 and not for the journey in question. We may note that FIR was registered on 27.06.2013 based on information received from Dy.Station Superintendent, Gudur, S.C.R. As per the affidavit of Office Assistant, South Central Railway, Secunderabad ticket No.C385755 from Nellore to Secunderabad II class for one adult the basic fare is Rs.149/- and for the journey dt.25.06.2013 and the transaction time is 12.00 a.m. and the TXN time is June 25.2013, 7.22 and 12.24 p.m and the cash received was Rs.165/-. As already observed herein if one is travelling from Nellore to Tirupati, as projected by the applicant, Gudur-Kondatunta railway stations will not come into picture at all. Further more, deceased body was cut into two pieces at T4 level (chest level). The inquest report noticed in specific recovery of old super fast journey ticket

dt.25.06.2013 issued at 19.22 hours. Thus the deceased cannot become a bona fide passenger. In para 7 of the OA it has been stated that ticket was purchased by the deceased and said to have been lost at the time of incident and could not be retrieved/traced by the railway police. No evidence has been adduced to establish either purchase of a ticket for the said travel or his actual journey undertaken at the route on which his body was located. As noticed herein above, the deceased was going towards Tirupati but his body was located altogether on different section. Examining the case from this angle, it is quite evident that the deceased was not travelling based on any valid ticket. Further more his body was cut into two pieces at chest level. Normally when a person/passenger has a fall from the running train, his body will not cut into two pieces."

6. This Court is of the considered opinion that the final report filed by the Sub-Inspector of Police, Gudur, is not corroborating with the other evidences. Perusal of the report reveals that no proper investigation had been conducted by the Sub-Inspector of Police, Gudur and the said report is filed in a mechanical manner. Thus, the final report cannot be trusted upon. The nature of the injuries sustained by the deceased as well as the final report submitted, are creating strong doubt in the mind of the Court regarding the manner of the accident. The body of the deceased found cut into two pieces straight from the chest. Thus, the possibility of falling down from a running train in the absence of any other evidence, cannot be relied upon.

7. There are frequent allegations regarding the manner, in which, the investigations are conducted by the Police with reference to the Railway accidents. The higher officials are duty bound to check periodically regarding the allegations of collusion and nexus between various parties having interest in the matter of getting compensation. The final reports filed by the concerned officials of the Police Station must be periodically verified and if any doubt arises, the higher officials are bound to initiate appropriate action. Reviewing the final reports prepared by the station officials are mandatory even as per the rules. The higher Police officials are bound to have a frequent check over the investigation methods, procedures as well as the reports prepared by the Station house officers.

8. In the present case, the nature of injury sustained and the finding in the final report are not corroborating and no prudent man can accept the final report stating that the deceased fallen down from the train sustained cut injury, more

specifically, on the chest part. In fact the body was cut into two pieces. Various circumstances were not considered nor investigated.

9. Thus, this Court is of the opinion that the findings of the Railway Claims Tribunal are in consonance with the reports and the facts and circumstances were also carefully considered by the Tribunal.

10. Accordingly, the judgment dated 18.08.2015, passed in O.A.No. 146 of 2014 stands confirmed and consequently, C.M.A.No. 1711 of 2017 is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The General Manager,
Union of India Owing,
Southern Railway, Chennai - 600 003.
2. The Railway Claims Tribunal,
Chennai Bench.

+1 CC to M/s.V. Venkatesan, Advocate sr 8401.

C.M.A.No. 1711 of 2017

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SP(09/03/2021)

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