

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2093 of 2017

B.Kalaivani

...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, against the judgment dated 16.12.2015 and made in O.A.(II-U) 295/2014 on the file of the Railway Tribunal, Chennai Bench.

For Appellant : Mr.M.Selvam

For Respondent : Mr.M.Vijay Anand

J U D G M E N T

The judgment dated 16.12.2015 passed in O.A.(II-U) 295/2014 is under challenge in the present Civil Miscellaneous Appeal.

2. The Claim Petition is filed by the appellant on the ground that on 21.01.2013 prior to 20.30 hrs, while the deceased was travelling in a train towards Gumedipoondi had accidentally fallen down from the running train into the pond under the Railway Bridge between Ponneri and Kavarapet Railway Stations at Km 34/12-14 at down slow line and due to Aspiration died at the place of accident.

3. The Claim Petition was filed seeking compensation. The Railway Tribunal adjudicated the issues with reference to the documents and evidences produced by the parties. The Inquest Report reveals that the deceased fell down from the Bridge on seeing the train coming from the other side. Therefore, the accident was no way connected with the train and the deceased fell down from the bridge in between Ponneri and Kavarapet Railway Station.

4. The Final Report also reveals that the deceased fell down from the Railway Bridge. Considering the documents, the Tribunal arrived a conclusion that the accident is not falling under the 'Untoward incident' as contemplated under the Railways Act and therefore, the appellant/ claimant is not entitled for compensation. The findings of the Tribunal reveals that the deceased were residing nearby Ponneri and more specifically, the incident also occurred very nearer to the residential house of the deceased.

5. The Divisional Railway Manager [DRM] Report stated that the area, where such incident took place that is nearby LC 25/PON, which is used by the local people and people cross the track quite often. As per the statement made by the applicant in the enquiry, it was categorically stated that father and son, while returning back to home after purchased rations through the Railway Track accidentally fallen down. The Post Mortem report reveals that both father and son died because of Asphyxia Aspiration and not because of hit or fallen down from the train as projected in the application. If the deceased were travelling towards Gummidipoondi, the precise originating and destination station / location ought to have detailed either in the OAs or through some other means, which has not been done in the present case.

6. Under these circumstances, the Tribunal arrived a conclusion that the applicant has not established the accident within the provisions of the Railways Act for grant of compensation. Thus, the Railway Tribunal rightly rejected the application and this Court do not find any infirmity or perversity as such and accordingly, the judgment dated 16.12.2015 passed in O.A.(II-U) 295/2014 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.2093 of 2017 is dismissed. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Railway Claims Tribunal,
Madras Bench.

2.The Section Officer,
VR Section, High Court, Madras-104.

+1cc to M/s.M.Vijay Anand, Advocate Sr.10013

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