

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4516 of 2019

Mrs.Santhini.K

..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 Railways Claims Tribunal Act, against the Judgment dated 27.08.2019 and made in O.A.(II-U) MAS/18/2019 on the file of the Railway Claims Tribunal, Chennai.

For Appellant : Mr.M.Selvam

For Respondent : Mr.M.Vijay Anand

JUDGMENT

The judgment dated 27.08.2019 passed in O.A.(II-U) MAS/18/2019 is under challenge in the Civil Miscellaneous Appeal.

2. The claimant is the appellant and the Claim application was filed on the ground that on 11.09.2014, the deceased in order to visit his native place of Thrissur, came along with his wife Shanthini to Chennai Central Railway Station and the deceased had procured an unreserved ticket for his travel from Chennai Central to Thrissur and his wife sent of him in Alleppey Express (Train No.22639). The deceased had travelled in the general compartment and it was heavily crowded. While the said train was running in between Vyasarpadi and Perambur Railway stations, due to crowd, he had accidentally fallen down from the running train at Km.4/31 Up and Dn Fast Line, sustained severe head injury and died on the spot.

3. The Tribunal adjudicated the issues. The Discussion of evidence collected by the RPF reveals the following fact:

“1.Alleged incident happened on 12.09.2014 and this claim has been filed before the Hon'ble Tribunal on 08.03.2018 the claim is barred by the time limitation.

2.The deceased was not having any journey ticket or travelling authority in his possession.

3.During the inquest by GRP/PER, no ticket was

recovered from the deceased.

4.GRP/PER simply assumed that the deceased had accidentally fallen down from the General Coach of an express train towards Arakkonam on down fast line between VPY and PER Railway Station.

5.There is no eye witness in this case.

6.As per the SM's memo, the body was found lying between up and down fast line between VPY and PER Rly stations as informed by public.

7.The train from which the deceased had allegedly fallen is neither known nor brought by any person. In this situation, it would not be correct to conclude that the deceased had actually fallen down from the running train because the victim was found lying near the track.

8.Mere lying of the body near the Railway track does not establish that the deceased died due to untoward incident.

9.The PMC establishes that the deceased would appear to have died to effect of head injuries.”

4. Based on the discussions, the DRM Report concluded by holding that the deceased is not a bonafide railway passenger and the alleged incident does not fall within the ambit of the term 'Untoward incident'.

5. Except the fact that the body was lying near the Railway Track, there is no evidence to establish either the deceased fallen down from the running train or an untoward incident occurred within the meaning of Section 123 of the Railways Act. Considering the facts and circumstances, and further dead body was lying nearby the Railway track for more than 12 hours unnoticed, the Railway Tribunal formed an opinion that the untoward incident was not established and the deceased was not a bonafide passenger. After examination of witnesses and considering the documents, the Tribunal made a finding in Paragraphs 12 and 13 which reads as under:

“12.Scrutiny of DRM (Inquiry) report reveals that no journey ticket was recovered by the Police during the inquest and that no information or knowledge about the train from which the deceased had fallen down. DRM Inquiry concludes that the deceased was not a bonafide passenger and the alleged incident does not fall within the ambit of the term untoward incident.

13. On an analysis of evidence adduced by both sides, I find that there is nothing on record about recovery of any objections/personal belongings of the

deceased viz., driving license, currency notes amounting to Rs.500 et. As claimed by the applicant. The reason for not recording recovery of personal articles by the police has not been explained by the applicant. If it is really received from the police, there must be entries in this regard. Even if recovery of driving license and cash currency from the possession of the deceased is true, as claimed by the applicant, a serious doubt occurs about non-recovery of train ticket from the possession of deceased. If objects like driving license and currency notes can be detected, why railway journey ticket alone could not be recovered, would lead to draw an adverse inference that he had no valid ticket with him and he did not travel at all. There are contradictions in the averments in OA and the deposition of the applicant about the purchase of ticket and travel of the deceased in the train from Chennai Central. AW1 has categorically stated that she did not see her husband boarding the train and that she had only accompanied him up to the station and returned. The spot of incident i.e. Between Vyasarpadi and Perambur is a busy section and a member of railway personnel are on duty in the yard and in the platform. If the deceased had fallen from Alleppey Express, which departed from Central station on 11.09.2014 and passes through the spot of incident

around 21.00 hrs, it would be noticed by the railway personnel, RPF or Police or Patrolling staff of railway's engineering wing. Victim's dead body was found only on 12.9.2014 at 8.55 a.m by general public and informed the matter to the Station Master, Perambur, who in turn informed the Railway police. Roads are there parallel to the rail track, where the incident had occurred.”

6. In view of the fact that the appellant could not able to establish even an untoward incident and the circumstances as well as the manner, in which, the dead body was found also raises a doubt that any such untoward incident, there is no reason whatsoever to interfere with the findings of the Railway Tribunal and this Court do not find any perversity or infirmity as in respect of the findings arrived and accordingly, the judgment dated 27.08.2019 passed in O.A.(II-U) MAS/18/2019 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.4516 of 2019 stands dismissed. No costs.

WEB COPY

30.03.2021

kak

Index: Yes/No

Internet: Yes/No

To

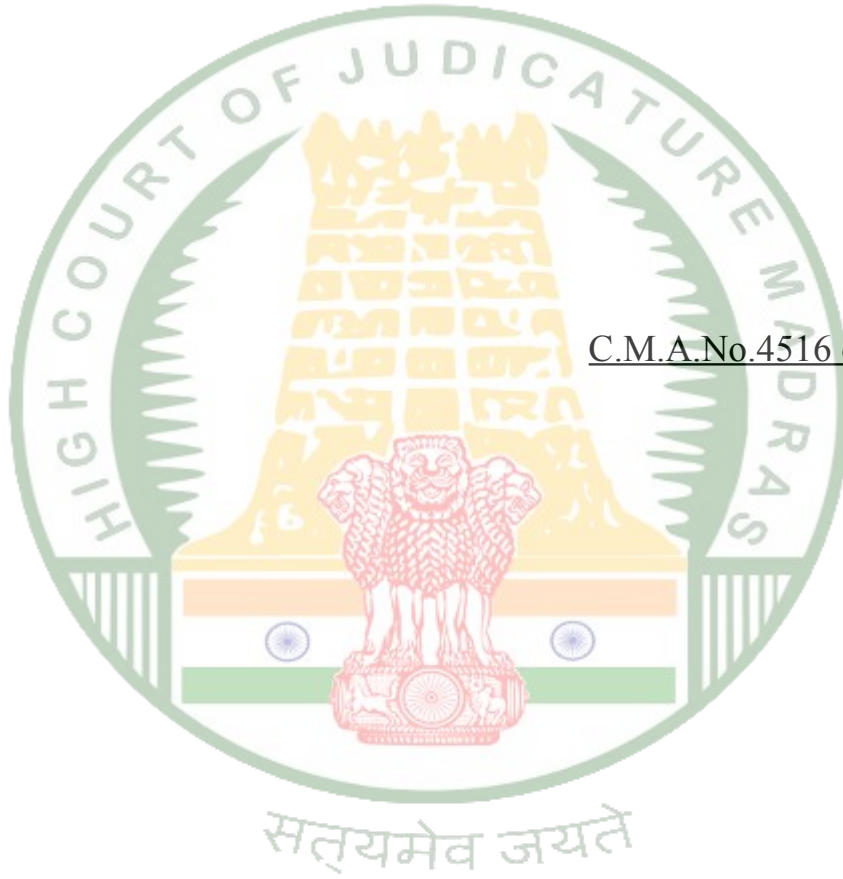
The Railway Claims Tribunal,
Chennai Bench, Chennai.



WEB COPY

C.M.A.No.4516 of 2019

S.M.SUBRAMANIAM, J.
kak



C.M.A.No.4516 of 2019

WEB COPY

30.03.2021