

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3255 of 2017

1.Mariyammal
2.Keerthana (Minor)
3.Harini (Minor)
4.Goutham (Minor)
5.Chinnappan
6.Bothumani

..Appellants

Vs.

Union of India,
owning Southern Railway,
Rep.by its General Manager,
Southern Railway,
Chennai - 600 003.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 23 (1) of Railway Tribunal Act, praying to set aside the order passed by the Railway Claims Tribunal, Chennai Bench in O.A. (II-U) 64/2017 dated 03.10.2017 and allow the appeal.

For Appellants : Mr.Parthasarathy
For Respondent : M/s.T.P.Savitha

J U D G M E N T

The order dated 03.10.2017 passed in O.A. (II-U) No.64 of 2017 is under challenge in the present Civil Miscellaneous Appeal.

2. The claimants are the appellants and the claim petition was filed on the ground that on 11.02.2017 night the husband of the first appellant left his house to go to work at Chennai and went to Madurai Railway Station and purchased train ticket. He boarded express train. During the travel, the deceased had accidentally fallen down from the running train in between Lalgudi R.S. and Pullampudi Railway Station and sustained grievous injuries and died on the spot. The case was registered.

3. The appellants filed claim petition before the Railway Claims Tribunal and the Tribunal adjudicated the issues with reference to the documents and evidences submitted by the respective parties.

4. The Tribunal made finding that in the deposition of AW-1 has stated that "Police has returned only driving license and no other belongings". Thus, the police could not able to retrieve either travel ticket or any other belongings of the deceased. Drawing an inference, the Tribunal made a finding that in the absence of any travel ticket and further the fact remains that no other belongings were recovered from the deceased held that deceased was not a bonafide passenger.

5. The opinion of the Tribunal who conducted postmortem also reveals that ""The deceased would have been died of shock and hemorrhage secondary to sustained injury mainly facial and skull injury. 32 - 36 hours prior to autopsy". Hence, as per post-mortem certificate, deceased would have died on the midnight of 11.02.2017 / early morning of 12.02.2017. As per copy of extract of Train Signal Register Book at Lalgudi Railway Station attached with DRM Report, 17 trains passed through that area in the early morning of 12.02.2017. None of Loco Pilots or Assistant Loco Pilots of any of these trains reported spotting body of deceased at the spot."

6. Considering the facts and circumstances, the Tribunal arrived a finding that the claimants could not able to establish that the deceased was a bonafide passenger and could not able to establish that the deceased had fallen down from a running train and sustained fatal injuries and died. Thus, the Tribunal dismissed the application.

7. The learned counsel for the appellant made a submission that the inquest report as well as the final report filed by the police states that the untoward incident occurred and therefore, the factum regarding the accident was established. Once the untoward incident was established, non-availability of travel ticket alone cannot be a ground to reject the application.

8. The learned counsel appearing on behalf of the respondent / railways relied on the investigation report of the Railway Protection Force, which deals with many facts, even it was established that there was a quarrel in the family and the deceased was in the habit of consuming liquour. They have arrived a conclusion that the victim had not travelled by any train and in fact was not at all a passenger. The evidence of the parents of the deceased as well as the wife of the deceased also raised a doubt with reference to the untoward incident occurred on a particular date. As per the First Investigation Report, the wife deposed that she had seen her deceased husband lastly on 07.02.2017, when her husband left the home. The parents of the deceased deposed that the deceased left their home on 10.02.2017. These all are the contradictions which raised a doubt whether the untoward incident occurred on account

of fallen down from a running train or it is a case of self-inflicted injury. When the facts and circumstances creates a strong doubt regarding the manner of death and the appellants could not able to establish that the deceased was a bonafide passenger or atleast the untoward incident occurred on account of fallen down from a running train, the Tribunal is right in rejecting the claim application.

9. This Court do not find any infirmity or perversity in the order of the Tribunal. Accordingly, the order passed in O.A. (II-U) No.64 of 2017 dated 03.10.2017 stands confirmed. Consequently, C.M.A.No.3255 of 2017 stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Railway Claims Tribunal,
Chennai Bench.

Copy to : The Section Officer, V.R.Section,
High Court of Madras, Chennai.

+lcc to Mr.S.Parthasarathy, Advocate SR.NO.13008

AKM/30.04.21/3P-4C/

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