

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

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

C.M.A.No.4300 of 2019

1.D.Balaraman

2.Vidhya

..Appellants

.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 (1) of Railway Claims Tribunal Act praying to set aside the order passed by the Hon'ble Railway Claims Tribunal, Chennai in O.A. (II-U)/212/2018 dated 11.10.2019 and allow the C.M.A.

For Appellants : Mr.S.Parthasarathy

For Respondent : M/s.T.P.Savitha

J U D G M E N T

The order dated 11.10.2019 passed in O.A.(II-U).No.212 of 2018 is under challenge in the present Civil Miscellaneous Appeal.

2. The claimants are the appellants and the application under Section 16 of the Railways Act was filed seeking compensation on the ground that the deceased before his death was studying 1st year carpenter training in Government Industrial Training Institute, Ambattur, Chennai - 98. For his study to go to ITI he was regularly using the Train. He used to travel by EMU electric train daily morning and evening between Arakkonam RS and Ambattur RS. For that he was using train season students concession issued for 3 months by his institute. After the expiry of 3 months students train season concession issued by the institute, every student has to get fresh train students concession (renewal) from the institute. For that it will take 2 to 3 days to get student concession (renewal) from the

institute. The 3 months season ticket used by the deceased was expired on 17.12.2017. Therefore, on 18.12.2017 morning the deceased in order to go to ITI purchased 2nd class train ticket at Arakkonam RS to reach Ambattur RS and travelled in EMU electric train and attended class. After the completion of class he, in order to return back his home purchased 2nd class train ticket at Ambattur Rs to reach Arakkonam Rs and boarded and travelled in EMU Electric train along with his classmates and friends and was standing near the entrance of the train due to heavy crowd and when the train was entering Tiruninravur Rs he was accidentally fell down on the platform and sustained grievous injuries and alive was admitted at Tiruvallur GH through 108 ambulance on the same day and for the further treatment he was admitted at RG Government Hospital, Chennai and was died on 21.12.2017 at 19.00 hrs in spite of the treatment given to him.

3. The Tribunal adjudicated the issues with reference to the documents and the evidences. Regarding the issue Nos. 2 and 3, the Tribunal made a finding that the deceased studied at Ambattur, Chennai. Everyday he used to travel between his home at Arokkonam and the Institute at Ambattur by train using his Students' Concession Season Ticket. The applicants have filed the original quarterly Students' Concession Season Ticket between Pattaravakkam - Arakkonam Junction, valid from 18.09.2017 to 17.12.2017 and the Season Ticket Identity Card of the deceased. The incident happened on 18.12.2017 and it is alleged that the deceased purchased a second class ticket at Arakkonam for travel to Ambattur to Arokkonam, he accidentally fell down from the train near Tiruninravur Railway Station. SM/Tiruninravur conveyed message to all concerned on 18.12.2017 at 19.30 hrs that Motorman and Guard of EMU No.66053 informed that one person fell down near post No.28/9 on platform No.2 of Tiruninravur Railway Station and was found with heavy injuries near the track. 108 Ambulance was informed and the injured person was taken to GH, Tiruvallur for treatment.

4. The Tribunal made a finding that the accident occurred and further the deceased died due to the accident. DRM report as well as the investigation conducted by the Police Authorities states that the deceased died on account of fatal injuries due to falling down from the running train.

5. This Court is of the considered opinion that when the factum regarding the accident was established and the Railway Authorities also admitted the fact that the death occurred due to fatal injuries sustained by falling down from the running

train, more specifically, when the train enters into platform of Tiruninravur, there is no reason to reject the claim petition. The ticket was admittedly not retrieved. However, the facts and circumstances reveals that the deceased traveled in a train and sustained injury due to untoward incident occurred. Though the Railway claims that it is a negligence. Mere negligence is insufficient to deny compensation to the victim. The non-availability of ticket alone cannot be a ground to reject the claim petition. The benefit of doubt in this regard must be extended in favour of the claimants to grant compensation as there is every possibility for loss of travel ticket on account of various factors during the accident.

6. The compensation is granted based on the welfare legislation and Courts are bound to interpret the provisions liberally for the benefit of the claimants. Mere non-availability of a travel ticket would not be a ground to decline compensation, unless, it is established by the Railways that the deceased had not at all travelled or no such accident occurred. In the present case, the Railways has admitted the accident and further admitted the fact that the deceased died due to untoward incident occurred in the platform.

7. This being the factum, denial of compensation merely on the ground that the deceased was not possessing a valid travel ticket will certainly cause injustice and the very purpose and object of the welfare legislation would be defeated. As far as the grant of compensation is concerned, untoward incident is established and a person died, then Courts are bound to adopt a liberal approach in grant of compensation to the poor victims. In most of the cases, the claimants are dependents. Thus a pragmatic approach is required. Mere rejection on the ground that the deceased was not possessing a travel ticket or the travel ticket was not retrieved would cause great hardship and therefore, this Court has no hesitation in arriving a conclusion that non-availability of ticket or non-retrieval of a ticket alone cannot be a ground for the purpose of rejection of compensation.

8. Even in case of untoward incident, mere negligence on the part of the deceased / injured is insufficient. If there was an intention on the part of the injured / deceased to commit a criminal act, then alone the Exclusion Clause can be invoked and not otherwise.

9. In the present case, the Railway could not able to

establish any such intentional negligence on the part of the deceased and further admitted that the untoward incident occurred when the deceased fallen down from a running train. This being the factum, the order of the Tribunal is perverse and accordingly the order dated 11.10.2019 passed in O.A. (II-U) No.212 of 2018 is set aside and C.M.A.No.4300 of 2019 stands allowed.

10. The respondent / Railways is directed to deposit the compensation amount of Rs.8,00,000/- (Rupees Eight Lakhs only) along with the accrued interest at the rate of 6% per annum *** from the date of award** within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit, the appellants are permitted to withdraw each 50% of the award amount with accrued interest by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. No costs.

Sd/-
Assistant Registrar(CO)
15.03.2021

*** Corrected as per order of this
Court dated 04.08.2021 made in
CMA.NO.4300 of 2019**

Sd/-
Assistant Registrar (CO)
11.08.2021

//True Copy//

Sub Assistant Registrar

pns

To

The Railway Claims Tribunal,
Chennai Bench,
Chennai

**To be Substituted the Order
Already Depatched on
15.04.2021**

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.11656
+1cc to M/s.T.P.Savitha, Advocate, S.R.No.37908

C.M.A.No.4300 of 2019

GMI (CO)
GN(17/03/2021)
CS/11/08/2021