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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2674 of 2021

1.P.Stella Mary

2.P.Jabaraj

3.P.Arunkumar

4.P.Vishva

...Appellants

Vs

Union of India
Through General Manager,
Southern Railway,
Chennai.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, against the Judgement dated 23.03.2021 passed by the Railway Claims Tribunal, Chennai Bench in O.A.(II-U)/118 / 2019.

For Appellants : Mr.B.Thirumalai

For Respondent : Mr.M.Vijay Anand

JUDGEMENT

The claimants who are the legal heirs of one Pakkiri @ Paulraj have filed the claim petition before the Railway Claims Tribunal, Chennai seeking compensation for the death of the said Pakkiri @ Paulraj, who is the husband of the 1st appellant and father of appellants 2 to 4.

2. It is the case of the appellants that on 20.11.2018 at about 4.15 hrs when the deceased was travelling in the general compartment of the Rockfort express as it was proceeding between Pullambadi and Kattur Railway Station the deceased due to the crowd in the general compartment accidentally fell down, suffered grievous head injuries, heavy discharge of blood and had died in the very spot. The appellants had come to know



about the accident only from the Virudhachalam Railway Police.

3. It is the case of the appellants that the deceased was native of Kayar Village in Thiruporur Taluk of Kanchipuram District. The deceased Pakkiri was temporarily staying at Avadi in connection with his Job, which was centring work. He used to visit his family once in two weeks. On 19.11.2018, the deceased had informed his wife and son that along with his supervisor and four others, he was going to Theni by train from Chennai Egmore Railway station. It is stated that the said Pakkiri had purchased a combined II class superfast ticket bearing Nos.UMC 22024279 & UMC 22024280.

4. The said Pakkiri had suffered serious injuries and had died on the spot. The inquest was held at the spot itself and in the presence of Panchayatars. The Police had discovered white colour half slack shirt, pant, red colour brief, belt etc., from the deceased but did not get the Railway ticket, which was claimed to be purchased by the deceased.

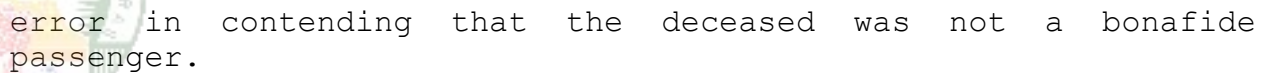
5. The Railways had filed a response to the claim petition stating that the appellants were not entitled to get compensation as the deceased was not a bonafide passenger as no ticket was recovered from the body of the deceased. The cause of accident was also denied. They had further stated that the said Pakkiri was in inebriated state. The said Pakkiri had consumed liquor before boarding train. Therefore, he could have fallen on account of his not being able to keep his balance. They had stated that without the ticket, the appellants were not entitled to get any compensation.

6. The Tribunal below has dismissed the application stating that the deceased had travelled without the ticket.

7. Challenging the said order, the appellants are before this Court.

8. The learned counsel for the appellants would submit that the appellants have produced the train ticket and once the ticket is produced, the onus is on the Railways to prove that the same is not the ticket, which has been issued to the deceased. He would submit that the appellants had come to know from the Railway Police that the deceased had taken two combined II class Superfast ticket bearing Nos.UMC 22024279 & UMC 22024280 for travel from Chennai, Egmore to Madurai Junction.

9. The learned counsel would also submit that the said Pakkiri had travelled with his Supervisor and 4 other colleagues to Theni. The body having been found on the Railway track and as the appellants had produced the ticket, the Tribunal was in



that th

12. Considering the fact that the appellants had not stated that from where they had received the tickets, it is a clear case of the documents having been created in order to get compensation from the Railways. The learned counsel would therefore submit that the Railways have been able to clearly and cogently show that the tickets that have been Exhibited are not the tickets which have been issued to the deceased and therefore it has to only be concluded that the deceased was not a bonafide passenger. Further, it is also seen from the Post-mortem report that the victim was travelling under the influence of alcohol and therefore the same would come under the category of self inflicted injury.

14. The only issue involved in the above case is whether the appellants / claimants are entitled to get compensation for the death of said Pakkiri, who is said to have travelled by train from Chennai to Madurai Junction and had fallen midway, resulting in his death. The issue revolves around whether the said Pakkiri was a bonafide passenger or not, since the legal heirs are entitled to compensation only if it is proved that he is a bonafide passenger. The Inquest Report filed by the Sub-Inspector of Police, Virudhachalam clearly shows that apart from shirt, pant, belt and brief, no other items had been recovered



from the body of the deceased.

15. Further, there is no explanation on the side of the appellants as to how they had laid hands on the tickets and who had given them the ticket, particularly when the initial report clearly states that no item or valuable or a ticket had been recovered from the body. Therefore, the respondent Railways have been able to rebut the claim of the appellants that the deceased was a bona-fide passenger, who had purchased the ticket and boarded the train. Once they have discharged their onus, the factum of proving their case shifts back to the Appellants. The appellants have not been able to prove their case that the deceased is a bona-fide passenger. A passenger has been defined in Section 2 (29) of the Railways Act, 1989 as follows:-

2 (29). "passenger" means a person travelling with a valid pass or ticket;

16. The explanation to the section states that a passenger would also include a person who holds a platform ticket. This definition is available only in the case of accidents coming within the ambit of Section 124 A which deals with "Compensation on account of untoward incident". What is an "untoward incident" has been explained in Section 124 A. In Section 124 A, the term passenger also includes a person holding a platform ticket. However, Section 2(29) does not talk about a person holding a platform ticket. Therefore, a conjoint reading of Section 2 (29) and Section 124 A with its explanation clearly provides that a passenger is one holding a ticket. The reference to a person holding a platform ticket in Section 124 A is to provide compensation to a person who on entering the Railway precincts had suffered an injury due to an untoward accident. In the light of the discussion in the foregoing paragraphs, it is to be held that the deceased Muniyasami did not possess a valid ticket and will therefore not be entitled to compensation.

17. In the result, I see no reason to set aside the order passed by the Railway Claims Tribunal, Chennai. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Member / Additional Registrar,
The Railway Claims Tribunal,
Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.M.Vijay Anand, Advocate, S.R.No.21401

+1cc to Mr.B.Thirumalai, Advocate, S.R.No.21598

C.M.A.No.2674 of 2021

MG(CO)
SU(23/05/2022)