



C.M.A.No.2418 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2418 of 2015
and M.P.No.1 of 2015

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

... Appellant/Respondent

Vs.

1.C.Kumaravel

2.C.Arunachalam

3.M.Prema

4.N.Vijaya

5.Ayyappan

6.I.Manju

...Respondents/Applicants

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order passed by the Railway Claims Tribunal, Chennai Bench made in O.A.No.(II-U) 212/2013 dated 24.02.2014.



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For Appellant : Mr.M.Vijay Anand

For Respondents : Notice not in ready [R1 to R6]

JUDGEMENT

Challenging the impugned judgment dated 24.02.2014 made in O.A.No.(II-U) 212/2013 passed by the Railway Claims Tribunal, the Appellant has filed the present appeal.

2. On 23.07.2012, prior to 11.30 hours, when the deceased Achiammal was travelling in a train which was proceeding from Nagercoil had accidentally fallen down from the running train near Gaingaikondan Railway Station, as a result of which, she sustained grievous injuries and died at the spot. Thereafter, the applicants filed an application before the Railway Claims Tribunal claiming compensation towards the death of the deceased in O.A.No.(II-U) 212/2013. After adjudication, the Tribunal has awarded a sum of Rs.4,00,000/- to the claimants. Challenging the same, the present appeal is filed by the appellant.

3. Learned counsel appearing for the appellant submitted that though the Tribunal has held that the deceased was a bonafide passenger, however, the deceased was not in possession of a valid train ticket when the body was recovered from the railway track. Mere presence of a body in the railway premise will not be a conclusive proof to hold that the deceased was a bonafide



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passenger and the applicants who are the dependants of the deceased are entitled for compensation. Hence the claim for compensation towards the death of the deceased as against the railway authorities is not sustainable and therefore, the impugned award of the Tribunal cannot be sustained. Accordingly, he prays for allowing the appeal.

4. Though this Appeal has been filed in the year 2015, till date, the appellant has not taken any effective steps to serve notice on the respondents. Considering the pendency of this Appeal, this Court is inclined to dispose of the same based on the materials available on record.

5. It is claimed that on 23.07.2012, the deceased while travelling in the train proceeding from Nagercoil had fallen down from the moving train near Gaingaikondan Railway Station for which, a case was registered before the railway police, Tirunelveli. However, it is the claim of the appellant that the deceased was not in possession of a valid train ticket when the body was recovered from the railway track and hence she cannot be said to be a bonafide passenger in the train. It is the further claim of the appellant that mere presence of body on the railway premise will not be a conclusive proof to hold that the deceased was a bonafide passenger and hence the claim of the applicants for



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compensation could not be maintained.

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6. As per Sections 123 & 124 of the Railways Act, 1989 if the person had purchased valid ticket from the railways and they are termed as bonafide passenger, if they accidentally fell down from the moving train, such person is entitled for claiming compensation. In the present case, the impugned award has been passed based on the evidence of A.W.1, the first applicant who had stated that the deceased had purchased the ticket before boarding the train and that she lost the train ticket. However, no contra evidence has been adduced by the railway authorities in order to disprove the statement of A.W.1. In the absence of any contra evidence, the claim of the appellant that the deceased was not a bonafide passenger cannot be sustained and thus, the Tribunal has rightly arrived at a conclusion that the deceased was a bonafide passenger and therefore, the applicants are entitled for the compensation awarded by the Tribunal and this Court does not find any perversity in the said findings of the Tribunal and hence the award passed by the Tribunal deserves to be sustained.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed and the



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Judgment dated 24.02.2014 made in O.A.No.(II-U) 212/2013 stands confirmed.

There shall be no order as to costs in the present appeal. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Netrual Citation Case : Yes / No

NHS

To

1.The Railway Claims Tribunal,
Chennai

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



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M.DHANDAPANI, J.

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