



W.P.No.21963 of 2012

W.P.No.21963 of 2012

WEB COPY **S.M.SUBRAMANIAM, J.,**

The writ of mandamus has been filed to direct the respondents to pay a sum of Rs.12,00,000/- by way of a compensation to the petitioner.

2.The husband of the petitioner Mr.Balasubramanian went to Adayar, Kasturibai Nagar on 13.10.2008 at about 8.30 pm. He planned to go to his office at Tharamani to complete certain pending works. The husband of the petitioner used the step way to buy a ticket, where at that point of time, construction material like blue metal and sand were kept in the pathway. While stepping to the first floor to buy tickets, unfortunately the deceased slipped and fell down from upstairs to the basement due to darkness and wide gap that was on the side of the steps, which was not covered. The husband of the petitioner sustained multiple injuries and also serious head injury due to which he died on the spot. An FIR was lodged by the Ticket Booking Clerk, Kasturibai Nagar Station, and the case was registered at Egmore Railway Police Station in Crime No.588/2008, dated 14.10.2008, under Section 174 of Cr.P.C.

3.The petitioner has rightly approached the Railway Claims



W.P.No.21963 of 2012

Tribunal, Chennai Bench, in OA.No.154/2009. The Railway Claims

Tribunal, Chennai Bench, adjudicated the issues and dismissed the petition as not maintainable under Section 16 of the Railway Claims Tribunal Act, 1987. The petitioner instead of filing a Civil Miscellaneous Appeal under the provisions of Railway Claims Tribunals Act, 1987, filed the present Writ Petition. The learned counsel for the petitioner states that the Railway Claims Tribunal dismissed the case as not maintainable and therefore, the petitioner was advised to file a Writ Petition under Article 226 of the Constitution of India.

4. Even in case of dismissal of a claim petition as not maintainable, a regular appeal under the provisions of the Railway Claims Tribunal Act is to be preferred by the aggrieved persons. The issue relating to maintainability is to be decided in the regular appeal and not by the writ Court under Article 226 of the Constitution of India. Thus, the writ petitioner ought to have preferred C.M.A. before this Court under the provisions of the Railway Claims Tribunal Act, 1987.

5. The Railway Claims Tribunal dismissed the application on



W.P.No.21963 of 2012

20.04.2010 and the writ petition was filed in the year 2012 which is

pending for the past more than 10 years before this Court. In the event of directing the writ petitioner to prefer a C.M.A. at this length of time, undoubtedly would cause greater prejudice to the interest of the petitioner and she may not be in a position to file another litigation merely on such technical grounds. Thus, in the interest of justice and enabling the petitioner to adjudicate the issues on merits, this Court is inclined to convert the writ petition as C.M.A. for the purpose of effective adjudication based on merits and in accordance with the law.

6. Accordingly, the WP.No.21963 of 2012 has been converted as C.M.A. under Section 23 of the Railway Claims Tribunal Act, 1987. Consequently, the registry of High Court Madras is directed to re-number the writ petition as C.M.A. and post it before the Court having roster.

(sha)

23.03.2023



WEB COPY



W.P.No.21963 of 2012

S.M.SUBRAMANIAM. J.,

(sha)

W.P.No.21963 of 2012

23.03.2023