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C.M.A.No.594 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.594 of 2022

1.V.K.Lakshmi
2.V.K.Gokila
3.V.K.Shanmugapriya
4.V.K.Vishnukumar

... Appellants / Applicants

Vs

Union of India
Through General Manager
Southern Railway
Chennai - 3.

..... Respondent / Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, praying to set aside the judgment passed in O.A.(II-U)./06/2021 dated 27.08.2021 by the Railway Claims Tribunal, Chennai Bench by granting an award for the Statutory Compensation of Rs.8,00,000/- with interest at 12% p.a. from the date of filing of the claim petition i.e., 10.02.2021 till the date of realization and to award cost of the proceedings.



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For Appellants : Mr.B.Thirumalai
For Respondent : Mr.R.Subramanian
Central Govt. Standing Counsel

JUDGMENT

The claimants before the Railway Claims Tribunal, Chennai in OA(II-U)/06/2021, having lost the same, are before this Court with this appeal.

2. The case of the claimants is that on 09.05.2019, while the victim of the accident was travelling from Tirunelveli to Madurai, he fell from the train at around 8.00 p.m., when the train was racing between Maniyatchi and Kadambur. His body was spotted by the villagers, who intimated the Village Administrative Officer, who in turn informed the railway police, and the complaint was given to the police by 1.30 p.m., on the following day by the VAO. The claimants are the heirs and dependents of the victim and they moved the Railway Claims Tribunal seeking a compensation of Rs.8,00,000/- The Tribunal had rejected it essentially based on certain evidentiary facts.

3. The fourth appellant has testified as P.W.1 before the Tribunal. It is their case that both his father and certain Balaji, his father's friend travelled



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together from Tiruchendur to Tirunelveli, from where both took different trains to travel to different destinations. While the victim chose to travel by Kanyakumari Express from Tirunelveli to Madurai, Balaji chose to take a different train to Villupuram. According to P.W.1, the family was informed after the railway police tracked Balaji from the cellphone of the victim, from whom, it obtained the details of the victim's family and intimated them. Now the claimants have not examined Balaji, and this has been taken exception to by the Tribunal. The second aspect that was considered by the Tribunal is that the police did not recover the ticket for travel.

4. The learned counsel for the appellants submitted that the accident had taken place at 08.00 p.m., when the victim had fallen from a fast running express train and it could be quite possible that the ticket might have been lost or at least it could not have been retrieved by the police. So far as non-examination of Balaji is concerned, more than his examination or non-examination, it would have been necessary for the railways to examine its witness. More so, when the body was found in the railway track and the railway police have not found the same to be a consequence of any other crime. When the victim has not died as a consequence of any crime and



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when his body is found on the track, the ordinary inference that could be drawn is that the victim had fallen from the train.

5. The learned counsel for the respondent adopted the line of reasoning of the Tribunal as his submissions.

6. This Court weighed the rival submissions and finds that the submissions made by the counsel for the appellants more probable, and hence more convincing. This Court does not incline to repeat the very submissions of the counsel for the appellant, but merely endorse the same.

7. To conclude, the appeal is allowed and the order of the the Railway Claims Tribunal, Chennai Bench, dated 27.08.2021 in O.A.(II-U)/06/2021 is set aside, and the claim of the appellants vis-a-vis their claim application is ordered as prayed for. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
tsg/ds



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To:

1.The Railway Claims Tribunal
Chennai Bench.

2.The Section Officer
VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

tsg/ds

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