



C.M.A.No.2026 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.2026 of 2023

and

C.M.P.No.19639 of 2023

Union of India
Rep., by its General Manager,
Southern Railway,
Chennai.

... Appellant

Vs

B. Gokularaman

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 23(1) of Railway Claims Tribunal Act, 1987, against the order dated 22.10.2021 made in O.A.(II-u)/MAS/108/2019, on the file of Court of the Railway Claims Tribunal, Chennai.

For Appellant : Mr. M. Vijay Anand

For Respondent : Mr. B. Thirumalai



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J U D G M E N T

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This Civil Miscellaneous Appeal has been directed against the order passed by the learned Railway Claims Tribunal, Chennai Bench in O.A. (II-U)/MAS/108/2019.

2. The respondent had filed a claim petition before the Tribunal stating that he sustained injuries during the travel in an EMU train from Avadi to Annanur Railway Station; that the accident was an untoward incident and hence, the appellant is liable to pay compensation.

2.1 The appellant resisted the claim petition stating that the respondent travelled on the foot board of the train, as a result of which his head hit against an electric pole; and that it is a self inflicted injury and hence, the appellant is not liable to pay compensation.

3. The Tribunal, after considering the pleadings and evidence held that the respondent sustained injuries in an untoward incident and even assuming that the respondent was negligent, it would not have a bearing as regards the liability of the appellant to pay compensation.



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4. The learned counsel for the appellant submitted that the evidence discloses that the victim / respondent travelled in a foot board and therefore, it would amount to self inflicted injury. However, the Tribunal had not considered the said fact and had erroneously awarded compensation.

4.2 Further, the learned counsel for the appellant relied upon the judgment of this Court in C.M.A.No. 2501 of 2015 in support of his submission that where the victim had travelled on a foot board and suffered injuries, it would amount to self inflicted injuries. The learned counsel also submitted that the Tribunal also erred in awarding the maximum compensation of Rs.8 lakhs without any finding with regard to the nature of injuries.

5. The learned counsel for the respondent per contra submitted that even assuming that there was negligence on the side of the respondent, it would not amount to gross negligence so as to call it self inflicted injuries. The DRM report confirms the fact that the respondent had a valid ticket and was a bonafide passenger.



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6. The only question in the instant appeal is-

Whether the Tribunal was right in awarding compensation to the respondent?

7. It is seen from the records that the DRM report states that on 03.10.2018 while the respondent was travelling on foot board on an EMU train from Avadi to Villivakkam station, he fell down from a running train after being hit against an electric pole. The respondent also had a valid ticket which is confirmed in the DRM report. The question is whether in the light of the admitted facts by the appellants, it can be said that the act committed by the respondent would amount to causing self inflicted injuries.

8. This Court is of the view that whether a particular negligent act would amount to self inflicted injury or not, depends on facts and circumstances of each case. The Hon'ble Apex Court in ***Union of India Vs. Prabhakaran Vijaya Kumar and Others*** reported in (2008) 4 MLJ 323 (SC) and in ***Jameela and Others vs. Union of India*** reported in AIR 2010 SC 3705, had observed that even assuming that it was a case of gross negligence, it would have no relevance in a claim petition under the



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Railways Act, which is a beneficial legislation. The Tribunal, on appreciation of facts, held that in the facts it would not amount to self inflicted injuries based on the aforesaid two judgments. Therefore, this Court is of the view that there is no reason to interfere with the said factual finding of the Tribunal in the instant case.

9. This Court also finds that there is no error in the order of the Tribunal in awarding maximum compensation. The Tribunal had appointed an Advocate Commissioner to examine the respondent who had reported that the respondent was in a vegetative state.

10. In the light of the above facts, the Tribunal was right in awarding maximum compensation and no interference is called for. Accordingly, this Civil Miscellaneous Appeal stands dismissed, confirming the award of the Tribunal. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.08.2023

Index: Yes/No
Neutral Citation: Yes/No
AT



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SUNDER MOHAN, J.

AT

To

1.The Court of the Railway Claims Tribunal, Chennai.

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

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