



C.M.A.No.1563 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1563 of 2023

and

C.M.P.No.15732 of 2023

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

... Appellant

Vs

1.M.Sakthi
2.Dhaneswar (Minor)
3.Kajendrarisii(Minor)
[Respondents 2 & 3 rep., by mother and natural guardian]

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 23(1) of Railway Claims Tribunal Act, 1987, against the order dated 23.07.2021 made in OA(II-U), 159 of 2019, on the file of Court of the Railway Claims Tribunal, Chennai.

For Appellant : Mr.M.Vijay Anand

For Respondents : Mr.S.Parthasarathy



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J U D G M E N T

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This Civil Miscellaneous Appeal has been filed challenging the award of the Railway Claims Tribunal, Chennai.

2. It is the case of the respondents/claimants that the deceased travelled in the train from Jolarpettai - Erode on 25.02.2019 at about 6.45 hours; that about 6.45 hours, while getting up from the seat, his head hit the luggage carrier and he fainted and fell down; that with the help of public, he was admitted at Salem Aishwaryam Hospital for injury and later at KMCH and Royal Care Hospital, Coimbatore; that on 26.02.2019 he was admitted at Government Hospital, Salem for treatment but succumbed to injuries on 27.02.2019; that since the deceased died due to an untoward incident and was a bonafide passenger, the appellant is liable to pay compensation.

2.2 The appellant resisted the said claim petition stating that the claim petition is not maintainable since the deceased died due to a natural cause namely cardiac arrest as opined by the Doctor; and that the appellant is not liable to pay compensation under Section 123(c)(2) of Railways Act since the death had taken place due to natural cause.



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2.3 The Tribunal after considering the oral and documentary evidence let in by the appellant and respondents found that the deceased was a bonafide passenger and died only because of an untoward incident and hence, entitled to compensation.

3. Mr.M.Vijay Anand, learned counsel for the appellant submitted that the deceased died due to a natural cause i.e., cardiac arrest as per the report given by a private Hospital by name Aishwaryam Speciality Hospital, Salem and the claim petition filed by the respondents is an after thought. The respondents claim that the head of the deceased hit the luggage carrier is also improbable, since the luggage carrier is at a considerable height. The learned counsel further submitted that there is no eye witness to the occurrence and in the absence of which it cannot be definitely said that the deceased suffered any head injury and hence, prayed for allowing this appeal.

4. The learned counsel for the respondents per contra submitted that the Tribunal taking into consideration the final opinion given by the Department of Forensic Medicine on 16.04.2019, which reads "*the deceased*



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would appear to have died of multiple injuries.” held that the deceased died on account of untoward incident. The learned counsel further submitted that the earliest version of all the persons who were examined on the side of the respondents has to be taken into consideration which is that the deceased had suffered an injury during the train journey. The learned counsel further submitted that the postmortem certificate indicates that the deceased suffered following injuries on the head:-*O/D OF HEAD:-Scalp-ContusionM-10X6X0.5 CMS noted over left frontal region. Vault-Intact.Brain-Diffuse Sub Arachnoid Hemorrhage note over both Cerebral Hemispheres. Base of Skull-Intact;* that the version of the respondents is more probable and the Tribunal therefore rightly awarded compensation. The learned counsel submitted that in any case, it is a beneficial legislation and ought to be interpreted in favour of respondents; and that admittedly, the deceased was a bonafide passenger, he had a duty pass as he was working a Constable attached to General Railway Police and hence, prayed for dismissal of the appeal.



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5. The only question in the instant appeal is-

“Whether the deceased died on account of an untoward incident?

6. Though the private Hospital by name Aishwaryam Speciality Hospital, Salem had opined that the deceased died due to cardiac arrest, it is seen from the records that the deceased had suffered head injuries. It is no doubt true that the exact manner in which he sustained injuries is not clear either from the evidence of the respondents or from the evidence on the side of the appellant. The postmortem certificate shows that the deceased had a contusion measuring 10x6x0.5 centimeters over the Left Frontal Region. The Forensic Department had also opined that the deceased would have died of multiple injuries. It is not the case of the respondents that the deceased sustained injuries elsewhere. Therefore, this Court is of the view that the Tribunal was right in holding that the deceased died on account of an untoward incident. Considering the evidence and the medical records let in on the side of the appellant and respondents, this Court is of the view that the deceased sustained injuries during the journey in the train and died due to the said injuries. Therefore, there is no reason to interfere with the said finding of the Tribunal.



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7. In the result, this Civil Miscellaneous Appeal stands dismissed confirming the award passed by the Tribunal. Consequently connected miscellaneous petition is closed. There shall be no order as to costs. The 1st respondent is permitted to withdraw her share of the compensation amount, less the amount already withdrawn, if any. The share of the minor respondents 2 and 3 are directed to be deposited in any one of the Nationalised Bank till the minor respondents attain majority. However, the 1st respondent, mother of the minor respondents 2 and 3 is permitted to withdraw the accrued interest once in three months.

04.08.2023

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

To

1. The Court of the Railway Claims Tribunal, Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

AT

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