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C.M.A.No.4305 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.4305 of 2019

V.Andavar

... Appellant

-VS-

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

... Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 23(1) of Railway Claims Tribunal Act, to set aside the Order passed by the learned Railway Claims Tribunal, Chennai in O.A.(II-U)/MAS/20/2019, dated 11.10.2019.

For Appellant	: Mr.S.Parthasarathy
For Respondent	: Mr.M.Vijay Anand

J U D G M E N T

This appeal has been filed by the appellant seeking to quash the Order passed by the learned Railway Claims Tribunal, Chennai in O.A.(II-U)/MAS/20/2019, dated 11.10.2019.

2. It is the case of the appellant that on 03.12.2013, at 21.15 hrs, the deceased along with his friends have taken group ticket to go to Tiruppur and



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boarded general compartment of Train No.16610 Coimbatore-Nagercoil Express. Due to heavy rush and sudden jerk, the deceased slipped and fell down from the running train in between Unjalur and Kodumudi Railway Station, sustained grievous injuries and died on the spot. Therefore, the claimant, who is the father of the deceased, filed a claim petition claiming compensation before the respondent.

3. The Tribunal, considering the pleadings, oral and documentary evidence, dismissed the petition. Aggrieved by the said award, the appellant/claimant has filed the appeal before this Court for quashment of the award.

4. The learned counsel for the appellant submitted that admittedly, the deceased Srinivasan died due to railway accident and the body of the deceased was found place in the Railway Track, which clearly shows its an railway accident and occurred due to untoward incident. AW1, who is the father, has clearly deposed that the deceased and his friends had purchased group ticket and travelled in the train due to jerk, the deceased had fallen from the train at night time. Therefore, nobody noticed his fall. The deceased died due to rush, speed and jerk of the train. It was an accidental fall within the meaning of term



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untoward incident as defined under Section 123(c)(2) of the Railways Act. The Tribunal without considering the factual position, dismissed the claim petition, which warrants interference of this Court.

5. Per contra, the learned counsel for the respondent submitted that the alleged incident had occurred on 03.12.2013. According to the evidence of AW2, they have purchased the group ticket for five members and travelled in an unreserved compartment. Contrary to the same, they have purchased the ticket only for four persons. Further, inquest was concluded. The learned counsel further submitted that the deceased was not a bonafide passenger and hence, Railways are not liable to pay the compensation under Section 124 A of the Railways Act. The Tribunal, considering the factual aspects, rightly dismissed the claim petition, which does not warrant any interference.

6. Heard the learned counsel for the appellants and the learned counsel for the first respondent and also perused the materials available on record.

7. Admittedly, the appellant is a claimant/dependent. He has filed a claim petition before the Railway Claims Tribunal for the death of the deceased. The Tribunal has dismissed the said petition on the ground that the deceased was



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not a bonafide passenger and that the death was not on account of a fall from a train to qualify as untoward incident under Section 123(c)(2) of the Railways Act, 1989.

8. A.W.2 had been examined on behalf of the claimant, who had clearly deposed that they have purchased a group ticket for five persons and travelled in unreserved compartment. The said statement is wholly erroneous and perverse. The general ticket is issued to a maximum of four persons only. Therefore, the evidence of the AW1 and AW2 are false and frivolous. Therefore, the finding rendered by the Tribunal that the deceased was not a bonafide passenger, which is correct.

9. Further, it is to be pointed out that the conduct of the alleged co-passengers, on coming to know about the missing of the deceased, in not reporting to either to the Railway officials or to the government Railway Police to make an attempt to know his whereabouts or to save the life of the deceased. As per the evidence of AW2, the deceased was travelling along with his four friends. On his missing before Pugalur Railway Station, they have to take necessary steps to save the life of the deceased. Without doing so, they simply reached the native place. It is equally undisputed that the body of the deceased was found out by the gate man and he only informed to the Railway Police. The



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Railway police, after recovering the body of the deceased, found out one slip with phone number from his body. Thereafter, the Railway Police informed the death of the deceased to AW1.

10. Only the dependents of a bona fide passengers are entitled to get compensation in the event of death occurring in an accident. But in the present case, the evidence of AW1 is lack of bonafide and the same is not supporting the present case. Hence, the Tribunal has rightly held that the deceased was not a bonafide passenger as he was not in a possession of journey ticket or valid travel authority and as such, rejected the claim petition, which is perfectly in order. This Court does not find any reason to interfere with the award passed by the Railway Tribunal and this appeal has no merit and the same is liable to be dismissed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

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Index: Yes/No

NCS : Yes/No

M.DHANDAPANI, J.



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