



C.M.A.No.2826 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2826 of 2021

1.Chellammal Chinnasamy
2.Mahalakshmi
3.Sakthi

... Appellants

Vs.

Union of India
through General Manager
Southern Railway, Chennai.

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed by the Railway Claims Tribunal, Chennai Bench, in O.A.(II-U)/58/2020 dated 30.07.2021.

For Appellants : Mr.S.Parthasarathy

For Respondent : Mr.M.Vijay Anand



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JUDGMENT

The above appeal has been filed to set aside the order passed by the Railway Claims Tribunal, Chennai Bench, in O.A.(II-U)/58/2020 dated 30.07.2021.

2. It is the case of the appellants/claimants that they are the wife and children of the deceased. The deceased was a resident of Chinnasalem town, Chinnasalem Taluk, Villupuram District and worked as a tea vendor. He frequently traveled by train to collect debts from his debtors in the surrounding areas. While so, on 30.07.2019, he arrived at Chinnasalem Railway Station with his wife, who purchased a second-class ordinary train ticket bearing No.UMD 96841861 for Rs.10/- to travel from Chinnasalem to Pukkiravari. At around 11.30 a.m, she sent him off on a passenger train. The deceased had a valid train ticket for his journey from Chinnasalem to Pukkiravari at approximately 11.06 hrs. While the train was running between Chinnasalem and Pukkiravari, he accidentally fell from the moving train at the location between Km.101/200 and 101/300, sustaining multiple injuries that resulted in his



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death on the spot. Subsequently, the dependents of the deceased filed a claim petition before the Railway Claims Tribunal, claiming 8,00,000/-. However, the Tribunal rejected the claim on the ground that the deceased was not a bona fide passenger and the death was not due to an untoward incident. Challenging the said order, the present appeal has been filed.

3. The learned counsel for the appellants submitted that it is an admitted fact that the appellants are the wife and children of the deceased. The wife of the deceased purchased a ticket and handed it over to her husband for his journey from Chinnasalem and Pukkiravari to collect the debts in the surrounding areas. However, while traveling between Chinnasalem and Pukkiravari, he fallen from the moving train and died on the spot, and his ticket was found with his body by the law enforcing agency attached to the Railway Police Force. Therefore, in the present case, the appellants' claim must be considered under Section 123 (c)(2) of the Railways Act, 1989. According to the said Act, if a train passenger dies due to an untoward incident, compensation must be awarded. Any passenger who accidentally falls from a moving train is entitled to compensation, provided they were an authorized passenger



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and possessed a valid ticket or pass. Here, the Railway Police themselves identified the body of the deceased and confirmed that the ticket was found with it. This satisfies the requirements of Section 123(c)(2) and 2(29) of the Act, thereby the Railways are liable to pay the compensation. In the present case, the appellant is entitled for Rs.8,00,000/- for the death of the deceased, which claim was unjustly denied by the Railway Claims Tribunal, which is unsustainable. Accordingly, he prayed for allowing this appeal.

4. Per contra, the learned counsel appearing for the respondent would submit that admittedly, the appellants claim that the wife of the deceased purchased the ticket for her husband at Chinnasalem railway station and handed it over to him. However, apart from her testimony, there is no other eyewitness to substantiate the claim. He would submit that the accident occurred between Chinnasalem and Pukkiravari, where, at the relevant time, only one train was in operation. Notably, no train pilot reported the incident. The Tribunal, after due consideration, concluded that the deceased might have been traveling on the footboard, thereby endangering his life, and subsequently fell from the moving train.



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Consequently, the Tribunal rejected the claim of the appellants, which does not warrant interference. Accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellants/claimants and the learned counsel appearing for the respondent and also perused the materials available on record.

6. Admittedly, the appellants are the claimants/dependents. They have filed claim petition before the Railway Claims Tribunal seeking compensation for the death of the deceased. The Tribunal has dismissed the said petition on the ground that the deceased was not a bonafide passenger and that the death was not on account of an accidental fall from a train to qualify an untoward incident under Section 123(c)(2) of the Railways Act, 1989.

7. The claim has been rejected by the respondent on the ground that the deceased would have traveled on foot board by risking his life and fallen from the moving train, which shows that the deceased had not



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accidentally fallen from the running train and, therefore, the respondent is not liable to pay any compensation.

8. From the narration of facts relating to the appeal, two questions emerge before this Court for consideration, viz.,

1) Whether the deceased person was bonafide passenger and the manner of accident leading to the death of the person could be held to be an untoward incident falling within the ambit of [Section 123\(c\)](#) of the Railways Act, 1989 ?

2) Whether the appellants/claimants in this appeal are entitled for compensation under [Section 124A](#) of the Railways Act, 1989 for the death of the deceased persons in an untoward incident ?

9. For better appreciation, Section 123 and 124(A) of the Railways Act are extracted hereunder:

“Section 123 in The Railways Act, 1989

[\(c\)](#) “untoward incident” means—



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(1)(i) the commission of a terrorist act within the meaning of sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.]

124. Extent of liability.—When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect



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thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident. Explanation.—For the purposes of this section “passenger” includes a railway servant on duty.”

10. From the above said provision, it transpires that any passenger, who accidentally falls from a running train, the same would stand covered under the definition "untoward incident" and once the incident is untoward, it would attract the liability of the Railways to compensate for the death of the said passenger.

11. Admittedly, in the present case, the deceased body was identified along with the ticket by the railway police attached with the Railways Department. Therefore, this Court have no hesitation to arrive



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at a conclusion that the deceased traveled as a *bona fide* passenger and had accidentally fallen down from the moving train. This apart, the first appellant herself deposed as A.W.1 before the Railways Tribunal stating that she purchased the ticket for her husband and handed the same to her husband and the said ticket was identified along with his body by the Railway Police. In such cases, the Railway should have independently examined the witnesses to disprove the same. In the absence of any independent witness, the Railway claims Tribunal rejected the claim, which is perverse and liable to be interfered with.

12. Accordingly, the Civil Miscellaneous Appeal is allowed and the respondent is directed deposit a sum of Rs.8,00,000/- as compensation to the credit of OA(II-U) 58/202, along with interest at the rate of 6% per annum, from the date of petition till the date of realization, within a period of four (4) weeks from the date of receipt of a copy of this judgment. Out of the compensation amount, the appellants are entitled to receive the same in the ratio of 40:30:30. Thereby, the first appellant is entitled for a sum of Rs.3,20,000/- and the appellants 2 and 3 are entitled for a sum of Rs.2,40,000/- each. On such



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deposit being made, the appellants are permitted to withdraw the compensation as awarded by this Court along with interest and costs, by filing an appropriate application before the Court concerned. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

1. The Railway Claims Tribunal, Chennai Bench

2.The General Manager

Southern Railway, Chennai.

2. The Section Officer,
V.R.Section, High Court,
Madras.

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