



C.M.A.No.3428 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3428 of 2021

1.Tmt.S.Yasodha

2.Mr.Mariappan

3.Baby.Mareeshwari

4.Baby.Isakki Shalini

(Rep. by her Mother, Natural Guardian

and Next Friend Tmt.S.Yashodha)

...Appellants

Vs.

Union of India,

Owning Southern Railways,

Rep. by its General Manager,

Southern Railway,

Chennai – 600 003.

...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of Railway Claims Tribunal Act, 1987, against the order dated 28.07.2021 made in O.A.No.(II-U) 179 of 2019 on the file of the Railway Claims Tribunal, Chennai Bench at Chennai.



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For Appellants : Mr.M.Ganesh

For Respondent : Mr.M.Vijay Anand

J U D G M E N T

This appeal is filed by the appellants challenging the order passed by the Railway Claims Tribunal, Chennai Bench at Chennai in O.A.No.(II-U) 179 of 2019 dated 28.07.2021.

2.The wife is the first appellant, the son is the second appellant and the appellants 3 and 4 are the minor daughters of the deceased.

3.Learned counsel appearing for the appellants submitted that on 04.09.2017, the deceased travelled by Train No.56797 and while the train was moving from Pavurchathiram Railway Station, he fell down from the train and his body got cut into two pieces after the wheel of the train ran over him. The appellants/claimants filed a claim petition before the Railway Claims Tribunal in O.A.No.(II-U)179 of 2019, the Tribunal has rejected the claim. Challenging the same, the present appeal has been filed.



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4.Learned counsel appearing for the appellants submitted that the learned Railway Tribunal failed to consider the well settled principles laid down by the Hon'ble Supreme Court in accident cases that it was necessary to be borne in mind that strict proof of an accident caused in a particular manner may not be possible to be done by the claimants and the claimants were merely to establish their case on the touchstone of preponderance of probability.

5.Learned counsel appearing for the appellants further submitted that learned Railway Tribunal also failed to consider the well settled principles laid down by the Hon'ble Supreme Court and High Courts in a railway claims cases that if a person is charged with travelling on a railway without, the burden of proving that he had a ticket is upon him, but, such principle is not applicable to a case of a dead person, who was proved to have died in the railway accident and whose body was taken in custody of the Railway Police. In such a situation, it is the duty of the Railway Authority to first give evidence that he was without a valid



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ticket and he was not a bonafide passenger. But in this case, the respondent has not given such evidence. Hence, he prayed to allow the appeal.

6.Per contra, learned counsel appearing for the respondent submitted that the deceased was having depression for which he underwent treatment and was under medication. He was having mental disturbance two months prior to the incident, for which he was under treatment and records reveal that there was no valid ticket recovered from the spot.

7.Learned counsel for the respondent submitted that the absence of ticket and complete lack of evidence in support of the deceased being a victim of falling down established that the onus was on the appellants and they had been unable to satisfy the basic issues.



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8.The learned counsel appearing for the respondent has drew the attention of this Court to the reply filed before the Tribunal and the findings of the DRM (Inquiry) report are as follows:

“It is evidently ascertained that the deceased with the intention of committing suicide, wilfully laid down across the railway track underneath Train No.56797 from off side, when it was stopped of Pavurchathiram Railway Station and when the train departed from the station, he got run over, cut into two pieces and succumbed to death.

In this case, there is no mistake on the part of Railways and the Railway is not responsible for this incident. Therefore, any claim from the Railways by the Claimant may be rejected”.

9.Learned counsel for the respondent further submitted that the deceased not being a bonafide passenger and the incident not being proved to be an untoward one, the appellants are not entitled for any



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compensation under Section 123(c)(2) of the Railways Act, 1989.

Hence, he prayed for dismissal of the appeal.

10.Heard learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent and perused the materials available on record.

11.The deceased was aged 52 years and he was running a photo frame shop at the time of the accident is not disputed and the deceased was died at Pavurchatiram Railway station and his body cut into two pieces from middle is also not disputed. This appeal has been filed only seeking compensation.

12.The deceased travelled in the Train No.56797 and while the train was moving from Pavurchathiram Railway Station, he fell down from the train and his body got cut into two pieces after the wheel of the train ran over him. The appellants/claimants filed a claim petition before the Railway Claims Tribunal in O.A.No.(II-U)179 of 2019, whereas the



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Tribunal has rejected the claim petition and has not awarded any compensation.

13.The Railway Claims Tribunal in its findings has held that the records reveal that there was no valid ticket recovered from the spot and the claimants have not produced any authority for the travel of the deceased. The Tribunal further held that there was no eye witness to the alleged accident and due to mental depression, the deceased had been taking medicines for the past two to three months.

14.On perusal of the records, it is seen that the respondent has not adduced any evidence to establish that the incident would not come under Section 123(c)(2) of the Railways Act, 1989 and the respondent is liable to pay compensation under Section 124A of the Railways Act, 1989.

15.A Criminal case was registered by the Law Enforcing Agency in FIR No.117 of 2017 under Section 154 of Cr.P.C. and Final Report filed



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by the Sub Inspector of Police, Railway Police Station, Tenkasi stating that at the time of the deceased was well dressed and there was a sizzling on the date of incident, the deceased may be died while he tried to entrain and fell down from the train and his body cut down into two pieces after the wheel of the train run over him. This Court is of the view that if a person is well dressed, there is no possibility of committing suicide.

16.The Railway Claims Tribunal accepted the DRM Report arriving a conclusion that the deceased was taking treatment for his mental stress and on that particular date, there was no crowd in the railway station and without any ticket, the deceased was travelled and he committed suicide and based on the assumption the claim was rejected, which is not sustainable. As per the decision of the Hon'ble Supreme Court in ***Doli Rani Saha vs. Union of India*** reported in **2024 INSC 603** (Civil Appeal No.8605 of 2024 arising out of SLP (C) No.32962 of 2018), once the affidavit is filed stating the facts and in order to disprove the same, mere filing the investigation report by the Railway is not sufficient, the burden of proof shifted to the Railway. However, in the



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present case, except the DRM Report, no other independent witness was examined by the Railway Claims Tribunal to disprove the same.

17.Though the DRM Report states that the deceased entered the railway station for committing suicide in order to prove the same, the investigation team of Railway examined Mr.Wilson Thangaraj, Station Master of Pavurchatiram on 04.09.2017 and the said Wilson Thangaraj's duty timing was from 6.30 hours to 14.30 hours at Pavurchatiram Railway Station. On that day, Train No.56797 passed from Tenkasi to Sengottai and arrived at Pavurchatiram Railway Station. After scheduled stopping of one minute, the train started from station, the train was not crowded after departure of the train, the Platform duty SCP Ms.Srimathy B Siji rushed to him and informed that the male dead body was found on track in two pieces cut from the middle and both Wilson Thangaraj and Srimathy B Siji deposed that the body was found in Pavurchatiram Railway Station in two pieces and thereafter, the body was taken to the nearby Government Hospital in 108 Ambulance. When two witnesses were available and the same were examined by the Railway, they were



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not examined before the Railway Claims Tribunal. In this background, it is relevant to refer the decision of Hon'ble Apex Court in ***Doli Rani Saha vs. Union of India*** reported in **2024 INSC 603** (Civil Appeal No.8605 of 2024 arising out of SLP (C) No.32962 of 2018), the Supreme Court has held as follows:

“14.In the present case, the appellant had duly filed an affidavit stating the facts and advertng to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted to the Railways, which has not discharged its burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted.”

18.On perusal of the above decision, make it clear that when affidavit is filed and when evidences are available to show that the person died in Pavurchatiram Railway Station and his body cut into two



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pieces, then the burden of proof shifted to the Railway to disprove the evidence of PW1/claimant. In the present case, no witness was examined before the Railway Claims Tribunal and simply referred the DRM Report is not sufficient to hold that the deceased is not a bonafide passenger.

19.Considering the facts and circumstances of the case and the submissions made by the learned counsel appearing on either side and the judgment of the Hon'ble Supreme Court referred to supra, this Court is of the view that the order passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.(II-U) 179 of 2019 dated 28.07.2021 is liable to be set aside and accordingly, the same is set aside.

20.The respondent is directed to pay a compensation of Rs.8,00,000/- with 6% interest before the Railway Claims Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants 1 and 2 are permitted to withdraw their share along with accrued interest from the date of claim application till the date of payment and proportionate costs,



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after deducting the amount already withdrawn, if any, on making proper and necessary application before the Railway Claims Tribunal. If the appellants 3 and 4 are still minor, their share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first appellant/mother every quarter to be utilized for the welfare of the said minors.

21.The Civil Miscellaneous Appeal is allowed with the above terms. No costs.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Railway Claims Tribunal,
Chennai Bench at Chennai.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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