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CMA No. 1663 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1663 of 2023

1. T. Yuvaraj
S/o.Thangamani, 23/35 Singara
Thoppu, Kumbakonam Taluk,
Thanjavur District.

Appellant(s)

Vs

1. The Union of India
Through General Manager, Southern
Railway, Chennai 3.

Respondent(s)

CMA No. 1663 of 2023

PRAYER

To set aside the order passed in RES. 1/2020 in IA. 17/2012 dated 23.07.2021 on the file of the Railway Claims Tribunal, Chennai.

CMA No. 1663 of 2023

For Appellant(s): T.C.Sajith Babu

For Respondent(s): C.Samivel



JUDGEMENT

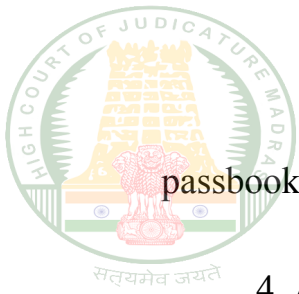
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This Civil Miscellaneous appeal has been filed to set aside the order passed in RES. 1/2020 in IA. 17/2012 dated 23.07.2021 on the file of the Railway Claims Tribunal, Chennai.

2. The brief facts of the case:

On 17.07.2007, the injured was travelling from Trichy to Kumbakonam and he boarded Trichy – Tiruvarur passenger train and had to change train from Thanjavur. While travelling in the said train near the door, the door suddenly closed in a jerk and knocked him out of the train near Bhudalur, making him unconscious and severely injured in the head, left elbow and left knee. He was in coma for almost 35 days and could not speak for almost a year. Hence, he filed the application under Section 16 of the Railway Claim Tribunal Act, 1987 r/w Section 123(c)(2), 124_A & 125 of the Railways Act, 1989, claiming Rs.4,00,000/-.

3. The Railway filed reply statement and DRM's report and On the side of the claimant filed GRP, RPF Mitra Yojana ID Card, Discharge summary, wound certificate, disability certificate, concession certificate, concession/benefits



passbook, ration/family card, Election ID Card and Aadhar Card.

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4. According to the applicant he purchased a ticket which was kept in his pocket. But as per the report of the Railway Protection Force he is not a bonafide passenger and no such ticket has been kept in the pocket. On hearing both sides, the tribunal held that, on the date of the accident injured travelled in the train and also injured was unconscious and all the possibility of ticket might have lost during his course of the treatment and come to the conclusion that applicant is bonafide passenger of train. Further, as per the evidence collected by the Railway Protection Force on the date of the accident there was no crowd in the coach and also contended that applicant travelled on the foot board of the running train, due to which he fell down from the running train which result to severe head injury and based on that the tribunal concluded that victim is a bonafide passenger and also it held that said injury is not self inflicted with an any intention to die and relied ratio laid down in Union of India Vs. Rina Devi ini Civil Appeal No. 4945 of 2018. Further, held that respondent itself admitted that injury was caused when he travelled in the train on the date of the accident. Thereby, the tribunal concluded that the applicant is a bonafide purchaser and



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got injured in untoward incident as defined under Section 123 C (2) by Railway Act, 1989 and also concluded that injury sustained is fall under the category of non schedule injuries. Therefore, by relying the Rule 3 Clause 3 of Compensation Rule tribunal awarded only Rs.80,000/- and enhanced as per the Amendment Rule, 2016 in respect of non-scheduled injury in Railway untoward incident to Rs.1,60,000/-. challenging the said award applicant preferred the appeal.

5. The learned counsel for the appellant submits that the learned judge had concluded that applicant got injured in untoward incident but instead of granting the full compensation the learned judge erred in giving relief under Rule 3(3) of the Compensation Rules thus the order suffers from non application of mind, thus the same ought to be set aside. Further the learned judge ought to have seen that once the applicant fulfill the conditions laid down under the Rule the applicant is entitled for the claims. The learned judge ought not to have rejected the claim of the applicant. Further, the case in hand also genuine thereby applicant is entitled for compensation as per the Rule. But the learned judge failed to consider the fact that due to the injury applicant was in



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coma stage for 35 days till he was not fully recovered. Therefore, injured sustained by him should have been treated as grievous and not fall under the category of scheduled injury. Furthermore, disability certificate relied by the applicant also not been appreciated therefore prayed to enhance the compensation and set aside the order of the tribunal.

6. By way of reply, the learned counsel for the respondent argued that as per RPF report he was not a bonafide passenger. On the date of the accident, he was travelled in the foot board of the running train thereby he fell down sustained injury which is self inflicted one. Therefore, the tribunal has rightly passed the order which needs no interference.

7. Considering the both sides submission, the fact reveals that applicant was fallen down from the sustained injury. On the other side the respondent also admits that as per the investigation of the Railway Protection Force on the date of the alleged accident the applicant travelled in the train. As per the contention of the applicant, while travelling in the train door jerked due to which he was fallen down from the train but as per the contention of the railways during the investigation it was found that he was travelling on the foot board of running



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train and fell down due to his own negligence but there is no eye witness on the side of the railways to prove that he was fallen down due to his own negligence. Immediately after the said accident, he was admitted to the hospital, as per the wound certificate he sustained fracture injury which is greivous in nature and he was admitted in hospital for 35 days in coma stage. Even thereafter he was not fully recovered. As per the disability certificate he was suffered with 50% permanent disability in speech and reading impairment and his condition also not progressive and due to the head injury he was not able to speak, read and vision impairment. He was hardly aged about 27 years at the time of the accident. Now, 50 % disability is certified by the doctor even concession certificate relied by the applicant also proved that he cannot travelled without any assistance which shows that due to the greivous injury sustained in the Post trauma dysphasia suffered with 50% disability. Admittedly, due to the said accident he sustained injury of L-parietal bone which is greivous in nature. So, he was declared with 50% permanent speech and reading impairment by Regional Medical Board/Medical Colleged Hospital, Thanjavur, through certificate dated 23.11.2011. In fact, the applicant was admitted to the



hospital and remain in hospital for 35 days in coma stage. Therefore by

submitting all the injuries and nature of the disability sustained by him. The

learned counsel argued that he is entitled to get compensation of Rs.4 lakhs as

per the Section 3 (3) of the Rule. As discussed above, the applicant is entitled

for compensation of Rs.4 laksh but tribunal failed to appreciate said aspects and

erroneously held that injuries sustained by the applicant is come under non

schedule as such is erroneous one. The applicant entitled to Rs.4 lakhs

Compensation.

8. Accordingly, appeal is allowed. The respondent is directed to release the above said amount to the applicant account within a period of 8 weeks from the date of receipt of a copy of this judgement. No Costs. Pending petition(s), if any, is/are closed.

12-06-2025

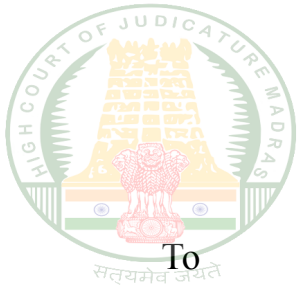
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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1. The Union of India

Through General Manager, Southern
Railway, Chennai 3.

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



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T.V.THAMILSELVI J.

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