



C.M.A.No.1706 of 2023

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 23.07.2025

CORAM :

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.M.A.No.1706 of 2023

1.Sasikala
2.S.Selvi
3. S. Durai Babu
4. S. Dayanidhi

...Appellants

Vs.

The Union of India
Owing to Southern Railway
rep by its General Manager
Southern Railway, 5th Floor
M.M.Complex, Chennai 600 003

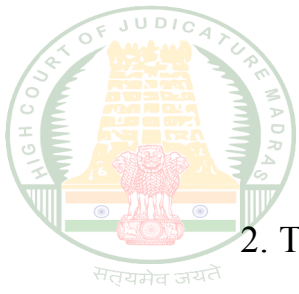
... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 23 of the Railways Claims Tribunal Act, 1987 to set aside the order dated 17.03.2023 passed in Case No.IA/MAS/01/2023 in Dy.No.95/2023 on the file of the Railway Claims Tribunal Chennai Bench.

For Appellants : Mr.S.Arivazhagan
For Respondent : Mr.M.Karthikeyan

JUDGMENT

Challenging the order passed in IA.No.01/2023 in Dy.No.95/2023 dated 17.03.2023 passed by the Railway Claims Tribunal, Chennai Bench, the claimants/appellants have filed the above appeal.



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2. The claimants have filed the application in IA.No.01/2023 to condone the delay of 1078 days in filing the claim petition. After contest, the Railway Tribunal dismissed the application. Aggrieved over the same, the claimants have filed the above appeal.

3. Heard both sides and perused the records.

4. Learned counsel for the appellants submitted that the 1st appellant is the wife of the deceased and the 2nd appellant is the daughter and 3rd and 4th appellants are the sons of the deceased. The 1st appellant's husband M.Shanmugam, while travelling by a train on 10.03.2017, intending to go from Pattabiram to Thirumullaivoil, met with an untoward incident and died in the accident. He further submitted that the appellants had handed over the case papers to the earlier advocate, but he had not filed the claim application in time. Later, they came to know about the non-filing of the claim application and thereafter they preferred the present petition through another counsel. Hence he prays to condone the delay.

5. Per contra, the learned counsel for the respondent/Southern Railway has objected the said application stating that the reasons assigned by the applicants for the inordinate delay has not been properly explained. The applicants/claimants ought to have filed the original application within one



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year from the date of the accident. On 10.03.2017, the alleged accident was happened to the deceased and the appellants ought to have filed the application on or before 10.03.2018 but they have preferred this application only in the year 2023 with delay and the reasons stated has also not been justifiable and acceptable. Considering the same, the Tribunal has rightly dismissed the petition which needs no interference.

6. On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side, the deceased died in an accident in a running train when he was proceeding from Pattabiram to Thirumullaivoil. It could be seen that there is a delay of 1078 days in filing the claim application. The appellants should have filed the claim application within one year from the date of accident (i.e.,) on or before 10.03.2018.

7. The appellants are the legal heirs of the deceased M.Shanmugam. After the said incident, the claimants/appellants had handed over the papers to the then counsel/earlier advocate to prefer an application before the Railway Tribunal. But, only in the year 2019, they came to know that no petition has been preferred by their counsel and due to Covid-19 and the health complications of the first applicant, they were not able to approach the court in time. So there is an inordinate delay in filing the application. But the Tribunal



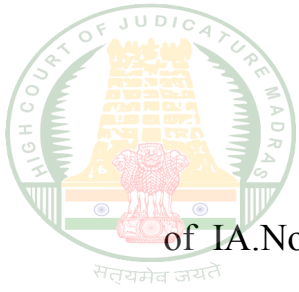
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has held that there is no sufficient cause assigned for filing the application with inordinate delay and hence the delay was not condoned and accordingly dismissed the petition.

8. Admittedly, the deceased died in the said accident leaving behind his wife, daughter and sons as his legal heirs. On the date of the alleged accident, the deceased was aged about 68 years. Further the appellants are able to prove that he was travelling in a train on the date of accident and this inordinate delay of 1078 days had happened due to the non-filing of the claim application by the then counsel, in time.

9. It is a settled proposition that the litigant ought not to put to suffer due to the negligence on the part of the counsel. If sufficient opportunity is not given to the legal heirs of the deceased, their valuable right to get a fair compensation will be defeated. Therefore, this court is inclined to set aside the findings of the Railway Tribunal in IA.No.01/2023 dated 17.03.2023.

10. Accordingly, this Civil Miscellaneous Appeal is allowed. The respondent/Southern Railway is directed to deposit the entire compensation amount of Rs.8,00,000/- with interest @ 18% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit



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of IA.No.01 of 2023 in Dy.No.95/2023 on the file of the Railway Claims

WEB TRIBUNAL Chennai Bench, within a period of six weeks from the date of receipt

of a copy of this order, if not deposited earlier. It is made clear that the interest for the default period is ordered to be waived.

11. On such deposit, the claimants 1 to 4 are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by the Tribunal, by making necessary applications.

12. The claimants are directed to pay the Court fee for the compensation amount, if required. The Railway Tribunal shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs.

23.07.2025

Index : Yes/No

Internet : Yes/No

Speaking order / Non speaking order

gv



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T.V.THAMILSELVI.,J
gv

To

1. The Union of India
Owing to Southern Railway
rep by its General Manager
Southern Railway, 5th Floor
M.M.Complex, Chennai 600 003

2. The Railway Claims Tribunal
Chennai Bench.

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