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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.415 of 2021

The Union of India owning
Southern Railway
Rep. by its General Manager
Chennai – 600 003. ... Appellant

Vs.

1.Vijayaraj

2.Gopalakrishanan

3.Kannan

4.Minor.Vinothini
(R4 being minor rep. by
Father and Guardian R1) ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 23 of the Railway Tribunals Act, to set aside the order passed by the Railway Claims Tribunal, Chennai Bench in OA(II-U) 145/2013 dated 01.11.2013 by allowing the civil miscellaneous appeal.

For Appellant : Mr.M.Vijay Anand
For Respondents : Mr.K.A.Vimal Kumar for R1, R2 and R4
R3 – Died (Steps due)

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J U D G M E N T

This appeal has been filed seeking to set aside the order passed by the Railway Claims Tribunal, Chennai Bench in OA(II-U) 145/2013 dated 01.11.2013.

2.The case of the respondents / claimants is that on 24.10.2012 at about 07.00 hours, the deceased Pothum Ponnu after informing her husband that she was visiting her relative's house at Manamadurai had travelled in a train and had accidentally fallen down from the running train before Sudiyur and Paramakudi Railway Stations at KM 574/900-575/000, sustained head injury and died on the spot. The claimants have averred that the ticket was lost at the time of accident. Thereafter, the claimants filed claim petition before the Railway Claims Tribunal, claiming compensation of Rs.4 Lakhs. After adjudication, the Railway Claims Tribunal awarded a sum of Rs.4 Lakhs with interest at the rate of 6% p.a. From 09.05.2013 till the date of the order and thereafter at 9% per annum till the date of actual payment and directed the appellant to pay the compensation to the claimants. Aggrieved by the same, the appellant has filed this appeal.

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3.The learned counsel appearing for the appellant submitted that the deceased is an un-authorized passenger who travelled in the train without any valid ticket, even then, the Tribunal awarded compensation for her death which is not sustainable one.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.On 24.10.2012 at about 07.00 hours, the deceased Pothum Ponnu had travelled in a train. She boarded the train at Manamadurai and had accidentally fallen down from the running train before Sudiyur and Paramakudi Railway Stations at KM 574/900-575/000 and sustained head injury and died on the spot. In order to prove the same, an affidavit was filed by the claimants before the Tribunal and on the basis of the affidavit, the Tribunal arrived at a conclusion that the deceased was a bonafide passenger and awarded compensation. Inorder to disprove the same, no evidence was adduced on the side of the appellant.

6.It is relevant to extract hereunder the relevant portion of the

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decision of Hon'ble Apex Court reported in ***2024 INSC 603 [Doli Rani Saha vs. Union of India]***:

> *"14.In the present case, the appellant had duly filed an affidavit stating the facts and adverting 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."*

7.Perusal of the decision cited supra, makes it clear that when affidavit is filed and when evidences are available to show that the person died in Railway Station, then the burden of proof shifts to the Railway to disprove the evidence of the claimants. In the present case, the appellant did not adduce any evidence to disprove the fact that the deceased was a bonafide passenger. Hence, the impugned order warrants no interference.

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8.The civil miscellaneous appeal is dismissed. The order passed by the Railway Claims Tribunal, Chennai Bench in OA(II-U) 145/2013 dated 01.11.2013, is confirmed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Railway Claims Tribunal,
Chennai Bench.

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