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C.M.A. No. 1415 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**C.M.A. No.1415 of 2023
and CMP No.14103 of 2023**

Judgment reserved on 29.08.2023	Judgment pronounced on 01.09.2023
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Union of India
Rep. By its General Manager
Southern Railway
Chennai

... Appellant

Vs

V.Vetrivel

...Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 23 (1) of the Railway Claims Tribunal Act 1987, against the order dated 27.08.2021 made in OA (II-U) 170 of 2019, on the file of Court of the Railway Claims Tribunal, Chennai Bench.

For Appellant : Mr.Vijay Anand

For Respondent : Mr.S.Parthasarathy



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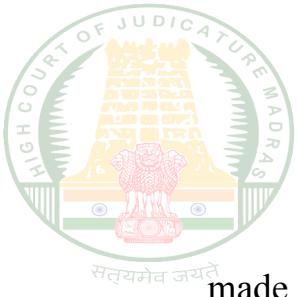
JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order dated 27.08.2021 made in OA (II-U) 170 of 2019, on the file of Court of the Railway Claims Tribunal, Chennai Bench.

2. By consent of both the parties, this appeal is taken up for final hearing at the admission stage itself.

3. According to the respondent, on 20.03.2019, he purchased a II class train ticket at Erode Railway Station to travel from Erode to Morappur and boarded in train No.12686. At about 03.50 hrs., while the train arrived on platform no.2, he tried to get down from the train, he lost his balance and slipped down between the gap of platform and train due to which he sustained grievous injuries in his right hand. In the said accident, his right hand was amputated at the level of upper limb. Hence, filed the claim petition.

4. The respondent filed reply statement denying the averments



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made in the claim petition stating that the accident occurred due to the negligent act of the respondent who alighted from the moving train, fell down and sustained injuries; hence the appellant is not liable to pay compensation for the self-inflicted injury under Section 124-A(b) of the Railways Act, 1989; that the respondent was not a bonafide passenger; that no ticket or travelling authority was found in possession of the respondent and prayed for dismissal of the petition.

5. The Railways Claims Tribunal, on consideration of the documents, held that the respondent was a bonafide passenger and he sustained injuries in an untoward incident that took place on 20.03.2019 and directed the appellant to pay a sum of Rs7,00,000/- as compensation to the respondent.

6. Aggrieved by the order dated 27.08.2021 made in OA (II-U) 170 of 2019, on the file of Court of the Railway Claims Tribunal, Chennai Bench, the appellant has filed the instant appeal.

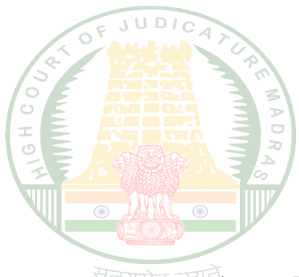


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7. The learned counsel appearing for the appellant submitted that the evidence on record would show that the injured had fallen down due to his own negligence and relied upon the DRM (Inquiry) report filed before the Tribunal. The DRM (Inquiry) report states that the respondent fell down while trying to get down from the running train, lost his balance, slipped down and fell into the gap between the platform and the train, due to which he sustained grievous injuries in his right hand. The learned counsel further submitted that the respondent was not a bonafide passenger as he was not found in possession of train ticket or travel authority. However, the Tribunal had on erroneous appreciation of facts held that the respondent was a bonafide passenger; that the incident was an untoward incident; that therefore the appellant is liable to pay compensation and prayed for allowing the appeal.

8. The learned counsel appearing for the respondent, per contra, submitted that even assuming that the respondent fell down from the train due to his own negligence, it cannot be said that it is not an untoward incident, as defined under Section 123 (c) (2) of the Railways



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Act. The learned counsel further submitted that even assuming that there is no negligence on the part of the Railways, it would not have any effect on the compensation claimed by the respondent. The learned counsel relied upon the following judgments in support of his contentions -

(i) 2012 (3) CTC 741 [The Union of India owning Southern Railway v. G.Jayalakshmi]

(ii) Order dated 13.08.2012 in CMA No.1993 of 2009 [Union of India Owning Southern Railway v. P.Krishnan & another]

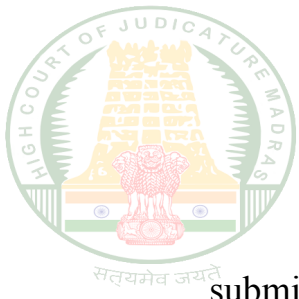
(iii) MANU/SC/0522/2018 [Union of India v. Rina Devi]

(iv) MANU/TN/9601/2019 [Gukhana v. The Union of India]

(v) Order dated 24.02.2021 in CMA No.4300 of 2019 [D.Balaraman & another v. The Union of India Owning Southern Railway]

(vi) Judgment of Hon'ble Apex Court in Civil Appeal No.3799 of 2023 [Kamukayi & Others v. Union of India and Others]

9. The learned counsel further submitted that since the respondent suffered crush injuries in the right hand which lead to amputation besides crush injuries in the leg and head, he became unconscious and therefore he was unable to produce the train ticket. Therefore, the learned counsel



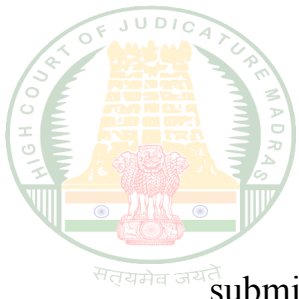
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submitted that since there is evidence to prove that the respondent travelled in the train, it cannot be said that he was not a bonafide passenger merely because the ticket was not produced and prayed for dismissal of the appeal.

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

11. This court, on hearing the submissions of the learned counsel on both sides and perusing the records finds that the appellant had not denied the accident. It is the case of the appellant that the accident took place due to the negligence of the respondent. It is settled position of law that mere negligence cannot be a ground to deny compensation even assuming that the appellant has established that the accident took place on account of the negligence of the respondent. The judgments relied upon by the learned counsel for the respondent referred above reiterate the above settled position of law. The learned counsel for the appellant

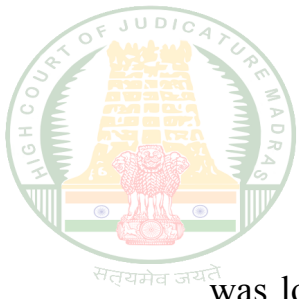


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submitted that the negligence is so grave that it would amount to self-inflicted injury which is a ground to deny compensation as per Section 124-A of the Railways Act, 1989. The DRM (Inquiry) report however does not suggest that the negligence is so grave as to bring it within the meaning of self-inflicted injury, even accepting the case of the appellant. Therefore, this Court is of the view that the respondent cannot be denied compensation on the ground of negligence.

12. The injuries as stated earlier suggest that it was grievous in nature. The respondent has filed an affidavit before the Tribunal stating that he had a valid ticket and he had lost it in the accident. It is trite that mere absence of ticket cannot be a reason to hold that the respondent is not a bonafide passenger. Considering the fact that the respondent had discharged his initial burden, it is for the appellant to let in evidence to show that the respondent was not a bonafide passenger. The Tribunal, considering the nature of injuries and the fact that the respondent may not have remembered the exact time of purchase of train ticket rejected the evidence let in by the appellant and held that it is probable that the ticket



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was lost during the accident. There is no reason to interfere in the said factual finding of the Tribunal. That apart, the appellant had not raised any question of law, much less substantial question of law to warrant interference in the finding of the Tribunal. It is needless to say that the Act is a welfare beneficial legislation and bound to receive a liberal interpretation.

13. In the result, this Civil Miscellaneous Appeal is dismissed confirming the order dated 27.08.2021 made in OA (II-U) 170 of 2019, on the file of Court of the Railway Claims Tribunal, Chennai Bench. The respondent is permitted to withdraw the award amount, along with interest and cost, after adjusting the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

01.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

1. The Railways Claims Tribunal
Chennai.

2. The Section Officer
VR Records, High Court,
Madras.

SUNDER MOHAN, J.

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**Pre-delivery Judgment in
C.M.A. No.1415 of 2023**

01.09.2023