

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.M.A.NO.18 OF 2014

JUDGMENT:

This appeal is filed by the appellant/respondent against the order, dt.24.10.2013 passed by the Railway Claims Tribunal Secunderabad in O.A.ii (u) No.472 of 2008 wherein the Tribunal granted compensation of Rs.4,00,000/- in favour of the respondents/applicants.

The facts of the case in brief are that respondent Nos.1 and 2 herein filed the said application before the Tribunal under Section 16 read with Sections 124-A & 125 of the Railway Claims Tribunal Act, 1987 (for short 'the Act') claiming compensation of Rs.4,00,000/- for the death of their son Ch.Durgaprasad (herein after referred to as 'the deceased') in an untoward incident of accidental fall from train.

According to the respondents, the deceased was a resident of Vijayawada and a bachelor. He was an electrician by profession. By informing his parents, he left the house to go to Vijayawada railway station on 11.10.2008 at about 8.00 a.m., to go to his friends at Machilipatnam and from there to go to beach at Manginapudi. He purchased a ticket bearing

No.81997236 and boarded a train bearing No.D-145 from Vijayawada to Machilipatnam passenger and while traveling, he got down at Gudivada and went to meet one G.Tirumala Giribabu on his personal work and from there the deceased with a view to go to Chilakalapudi, went to Gudivada railway station accompanied by Tirumala Giribabu on 11.10.2008 at 3.30 p.m., and purchased a passenger train journey ticket bearing No.70634698 from Gudivada to Chilakalapudi and boarded train No.D-113-A Gudivada-Machilipatnam passenger in a general compartment. While traveling, the deceased accidentally slipped and fell down from the running train at km.No.12/5-6 between Kavutavaram and Gudlavalleru railway stations due to speed, jolts and jerks of the train, sustained severe multiple injuries and died on the spot.

The appellant/respondent filed written statement opposing the claim of the respondents/applicants stating that there is no cause of action for the applicants as the claim does not fall within the ambit of Sections 123 (c) or 124-A of the Act. It is also stated that the death of the deceased happened due to other reasons and not on account of fall from the train. It is also denied that the deceased was not a bona fide passenger.

Basing on the evidence of AW-1 and AW-2, Exs.A-1 to

10, RW-1 and RW-2 and Ex.R-1, the Tribunal granted compensation to the respondents/applicants with interest at the rate of 6% per annum from the date of application, till the date of order and at the rate of 9% from the date of order till the date of realization. Aggrieved by the same, the present appeal is filed by the appellant-Union of India.

The learned counsel for the appellant submits that since no injuries are found on the dead body of the deceased, it is not an accidental death and the death may be due to other reasons. As such, it is not an untoward accident and the same does not fall under the purview of Section 124-A of the Act.

Heard the learned counsel for the appellant.

The Tribunal basing on the documentary evidence i.e., Ex.R-1 Divisional Manager's Report, held that the deceased purchased a ticket bearing No.70634698 from Gudivada to Chilakalapudi. The oral evidence of AW-1 father of the deceased who deposed in his evidence that the police found two train journey tickets in the pocket of his son's body after the accident and also the evidence of AW-2 who deposed in his evidence that in the morning of 11.10.2008 the deceased met him and spent time till afternoon and stated that he is going to Machilipatnam and from there to beach at Manginapudi along

with some other friends and the deceased requested AW-2 to accompany him but he could not do so due to other business and after completion of his work, he and the deceased went to Gudivada railway station in the afternoon hours on 11.10.2008 and the deceased purchased a passenger train journey ticket and boarded the train in his presence and after departure of the said train, AW-2 returned from the railway station, came to the conclusion that the deceased was a bona fide passenger of the train and died in an untoward incident of accidental fall from the train and also held that the deceased fell down from the train due to jerks and also due to rush. The Tribunal basing on Ex.A-5 postmortem held that the cause of death is due to head injury, shock and hemorrhage and also due to multiple injuries to vital organs and found that the deceased was holding a journey ticket, which has been recovered from the pocket of the deceased. Further, the Tribunal basing on the evidence of AW-2 who stated that the deceased boarded a train bearing No.D-113A held that the deceased was involved in the train accident and died due to the untoward incident by way of falling under the train. Basing on Exs.A-1 to A-10 the Tribunal clearly found that the deceased died due to an untoward incident and the appellant/respondent has not established the fact that the

deceased was not a bona fide passenger.

As such, I do not find any infirmity in the order passed by the Tribunal and the same is based on the evidence. Therefore, I find no merit in the appeal.

The appeal is, therefore, dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.18.01.2016
TJS

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