

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.602 OF 2010

Dated 29-8-2016

Between:

Chillakuru Ramanamma and others.

..Appellants.

And:

The Union of India, represented by the General Manager,
South Central Railway, Secunderabad.

..Respondent.



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JUDGMENT:

This appeal is preferred against order dated 14-10-2009 in O.A.A.N.302 of 2003 on the file of Railway Claims Tribunal, Secunderabad Bench.

Appellants herein are claimants who contended that Ch.Chenna Kesavaiah died in an untoward incident on 18-1-2003 and according to their contention, deceased while coming down from the foot-over Railway-bridge in Gudur Station, with ticket No.09911, in order to go to Naidupet by passenger train, by taking support of parapet wall of the stair case which was low in height and due to that he fell and sustained fatal injuries on vital parts of the body and died while undergoing treatment in government hospital, Guduru on the same day. The Claims Tribunal on a consideration of evidence of both parties dismissed the claim petition mainly on the ground that there is no evidence on record to show that there is negligence on the part of the railways i.e., respondent herein for the untoward incident. Aggrieved by the same, claimants preferred present appeal.

Heard both sides.

Advocate for appellants submitted that foot-over Railway-bridge in Gudur Station was with low height parapet wall to the staircase which was the reason for the deceased accidentally falling down. He further submitted that subsequent to this accident, the

railways have raised the height and there are photographs to prove the said fact. He further submitted that unfortunately, claimants could not produce this evidence before tribunal and an opportunity may be given to the claimants to prove the negligence of railways about the height of the parapet wall of the staircase of foot-over Railway-bridge in Gudur Station, by remitting back the matter to the Claims Tribunal, to decide on this aspect.

Sri J.Ashok Kumar, learned Standing Counsel for railways, opposed for such a request and submitted that at this length of time, there cannot be any evidence as to the height of the parapet wall of the staircase on the date of incident which happened nearly 13 years back.

I have perused the impugned order. Claims tribunal mainly disallowed the claim on the ground that there is no evidence of negligence on the part of railways for fall of deceased from parapet wall of the stair case.

Learned advocate for appellants has produced some photographs before this court to show that the height of parapet wall of the stair case was increased after the incident. But as these photographs are not part of record, I feel request of the advocate for appellants for remand is to be considered.

For these reasons, the matter is remitted back to the Claims Tribunal directing the tribunal to give opportunity to both parties to lead evidence as to the height of parapet wall of the stair case over the railway bridge as on the date of accident i.e.,18-1-2003 and

subsequent thereto and thereafter, to decide the matter afresh in accordance with law.

For these reasons, the impugned order dated 14-10-2009 is set aside and the matter is remitted back for the fresh consideration as indicated above. No costs.

Claims Tribunal shall dispose of the matter as expeditiously as possible as it is an accident case of 2003.

Accordingly, appeal is allowed. No costs.

As a sequel to the disposal of this appeal, Miscellaneous Petitions, if any, pending, shall stand dismissed.

Dated 29-8-2016.

Dvs.



JUSTICE S.RAVI KUMAR

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Dated 29-8-2016

Dvs