

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.1083 of 2010

Dated 21-3-2016

Between:

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

..Appellant.

And:

Bandi Venkateswarlu and another.

..Respondents.

-

-

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.1083 of 2010

JUDGMENT:

This appeal is preferred questioning the order dated
19-8-2010 of Railway Claims Tribunal
Secunderabad Bench at Secunderabad.

Appellant herein is respondent in O.A.A. No.102 of
2006. Parents of the deceased i.e., respondents 1 and 2
herein approached Railway Claims Tribunal and
submitted application claiming compensation for the death
of their son in an untoward incident on 21-2-2005.
Appellants herein resisted the claim on the ground that
deceased was not a bonafide passenger and it is self
inflicted injury and not entitled for compensation.

Railways Claims Tribunal conducted enquiry during
which two witnesses are examined on behalf of claimants
and one witness is examined on behalf of appellants
herein and considering oral and documentary evidence
produced by both parties, negatived objection of the
Railways granted compensation of Rs.4,00,000/-.
Questioning the same, present appeal is preferred.

Advocate for appellants submitted that as per the
report of DRM which is marked as Ex.R.3, no untoward
incident came to the notice of railway authorities on 21-2-

2005 and that the claimants failed to show that deceased was a bonafide passenger as defined in Railways Act and therefore, claimants are not entitled for compensation. He further submitted that A.W.2 who is a co-passenger along with the deceased did not pull the chain to stop train and only complained at the Ongole station and if really untoward incident as claimed had taken place normal conduct of A.W.2 would have been taken to see that train is stopped, therefore, claim of claimant with regard to untoward incident cannot be accepted.

On the other hand, advocate for claimants submitted that as per the decision of Supreme Court, it is for the railways to show that no ticket was issued from Ammanabrolu to Ongole on the date of incident and railways have not produced any evidence and taking that into consideration, the Claims Tribunal accepted the version of claimants that deceased was a bonafide passenger and died in an untoward incident granted compensation and there are no grounds to interfere with the order of Railway Claims Tribunal.

Now the point that would arise for my consideration in this appeal is whether the order of Tribunal is legal, correct and proper? POINT:

It is the specific case of respondents 1 and 2 herein that on 21-2-2005, the deceased purchased a journey ticket from Ammanabrolu to Ongole and boarded Krishna Express i.e., 7406 and he was sitting near the doorway because of heavy rush and when the train while passing between Karavadi and Ongole railway station near K.M.No.292/17-19 at about 4 P.M., the deceased slipped accidentally from the train and fell down due to jerks and died. To substantiate this, they mainly relied on evidence of A.W.2 who deposed that he was travelling along with the deceased on 21-2-2005 and deceased was sitting at the door and accidentally slipped from the train and fell down and after train reached Ongole station,

he reported the same to police.

As seen from the record, A.W.2 is the person who lodged F.I.R. which is marked as Ex.A.1, as against this, railways mainly relied on the report of DRM which is marked as Ex.R.3 and evidence of R.W.1. Evidence of R.W.1 is only on the basis of records, he has no personal knowledge about the incident and other aspects. Considering this evidence particularly evidence of A.W.2, the Railway Claims Tribunal over ruled the objection of Railways that deceased was not a bonafide passenger and that the injuries sustained by him are self inflicted one.

As seen from the record, A.W.2 in F.I.R. clearly stated that they purchased tickets but in the statement before police it seems to have stated that both himself and the deceased have not purchased the tickets. Railway Claims Tribunal also considered this aspect with reference to the material on record accepted his earlier statement that deceased alone brought ticket and on that recorded a finding that the deceased was a bonafide passenger.

As rightly pointed out by advocate for claimants, it is for the railways to produce evidence to show that no tickets were issued for train number Krishna Express i.e., 7406 on 21-2-2005 from Ammanabrolu to Ongole and when they failed to establish it, presumption has to be drawn when it is proved that the deceased was in the train at the time of incident that he is a bonafide purchaser until contrary is proved. I do find some force in the contention of learned counsel for claimants because from the evidence of A.W.2, it is clear that the deceased was travelling as a passenger in train number 7406 Krishna Express when he fell down accidentally between Karavadi and Ongole railway station near K.M.No.292/17-19. Railway Claims Tribunal has considered every aspect with reference to material on record and rightly negated

For these reasons, I am of the view that there are no grounds to interfere with the compensation granted to the respondents 1 and 2 herein and that the appeal is devoid of merits.

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

S.RAVI KUMAR

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

-
CIVIL MISCELLANEOUS APPEAL No.1083 of 2010

Dated 21-3-2016

Dvs