

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.51 of 2010

ORDER:

Heard the learned counsel for the petitioners and Sri P.Bhaskar, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.09-12-2009 in R.P.No.18 of 2009 in O.A.A.No.114 of 2003 of the Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

3. The husband of the 1st petitioner suffered an accident when he had a fall from train No.347 operated by respondent on 26-12-2002. Later he was admitted in the Osmania General Hospital, Hyderabad where he died on 10-02-2003.

4. Claim Petition was filed by the petitioners before the said Tribunal seeking compensation from the respondent for the same under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A and 125 of the Railways Act, 1989.

5. The Tribunal granted compensation of Rs.3.30 lakhs with interest at 9% per annum from the date of order till the date of actual payment. This compensation was awarded on the ground that the deceased had suffered only injuries because of his fall from the train and it was not proved that he died because of the accident. This conclusion of the Tribunal was based on the failure of petitioners to produce the medical records of the deceased for the period between 26-12-2002 and 10-02-2003.

6. Thereafter, R.P.No.18 of 2009 was filed by petitioners on 20-07-2009 seeking review of the said order invoking Rule 32 of the Railway Claims Tribunal (Procedure) Rules which permits a review on the grounds similar to those mentioned in Order 47 Rule 1 CPC.

7. In the grounds of review, it is the contention of the petitioners that the Tribunal ignored a document dt.10-02-2003 issued by the Osmania General Hospital and it ought to have awarded Rs.4.00 lakhs compensation with interest from the date of application. The review petition was dismissed by the impugned order on 09-12-2009 on the ground that the document dt.10-02-2003 being relied by the petitioners is xerox copy and not certified copy of any authority and that it had also not been marked in evidence by the petitioners when the Tribunal had earlier tried the matter. It also held that the review petition should be filed by the person aggrieved and not by his counsel.

8. Challenging the same, this Revision Petition is filed.

9. Learned counsel for the petitioner contended that the Tribunal ought to have taken into account the document dt.10-02-2003 issued by the Osmania General Hospital which would prove the cause of the death.

10. It is pertinent to note that the Tribunal had not granted compensation for the death of the deceased not on the ground that his death was not proved but on the ground that his death on account of the accident was not proved. This finding was based on its view that the medical record relating to treatment given to the deceased for the period between the date of the accident and the date of the death was not produced by the petitioners. It is not in dispute that the burden of proving the treatment

which was given to the deceased before his death is to be discharged by the petitioners and it is not the case of the petitioners that they did provide such information to the Tribunal and the Tribunal had not considered it.

11. Therefore, I am of the opinion that the Tribunal had rightly dismissed the Review Petition and that no case has been made out by the petitioners for interference with the said decision of the Tribunal.

12. Accordingly, the Civil Revision Petition is dismissed. No costs.

13. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

Date: 04-11-2016
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JUSTICE M.S.RAMACHANDRA RAO

