

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.15 OF 2010

Dated 8-7-2016

Between:

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

..Appellant.

And:

Inkota Padma and others.

..Respondents.

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JUDGMENT:

This appeal is preferred against order dated 12-8-2009 in O.A.A.No.279 of 2006 on the file of Railway Claims Tribunal, Secunderabad Bench.

Respondents 1 to 3 herein submitted application under Section 16 of Railway Claims Tribunal Act read with Section 124A of Railway Act seeking compensation of Rs.4,00,000/- for the accidental death of deceased I.Yelamandaraao.

Claimants contended that deceased along with one Ramaiah went to Nellore Railway Station on the earlier hours of 9-6-2006 and purchased a journey ticket from Nellore to Ongole and boarded train No.7229 Sabari Express and the deceased accidentally slipped and fell down from the said train at K.M.No.288/18-20 due to speed and jerk of train and sustained severe injuries and died on the spot.

Appellant herein disputed the claim and contended that deceased is not a bonafide passenger for train number 7229 Sabari Express and that there was no untoward incident of accidental fall.

On these allegations, Railway Claims Tribunal

conducted enquiry during which two witnesses are examined and five documents are marked on behalf of claimants and one witness is examined and two documents are marked on behalf of appellant. On an overall consideration of oral and documentary evidence, Railway Claims Tribunal disbelieved the version of appellant and granted compensation of Rs.4,00,000/- with interest. Aggrieved by the said award, railways preferred the present appeal.

Heard arguments.

Advocate for appellant submitted that deceased was not a bonafide passenger for train No.7229 Sabari Express and the claimants failed to produce journey ticket nor any evidence to show that deceased travelled in train No.7229 Sebari express. She further submitted that there is no evidence for the alleged accidental fall and the evidence of AW.2 is not supported by any platform ticket to show that he accompanied deceased upto the train on the alleged date 9-6-2006. She further submitted that according to D.R.M.report, belongings of the deceased were found at the spot, as there was no journey ticket, tribunal ought to have inferred and held that claimants failed to show that deceased was not a bonafide passenger. She further submitted that the tribunal erroneously interpreted report of D.R.M. from which it is clear that there is no untoward incident and further the evidence of RW.1 would clearly show that even police are not sure whether the deceased died due to fall from the train or due to hit by a train while crossing track and therefore, when there is no evidence to show that the death was due to an untoward incident, the order of the railway Claims Tribunal granting compensation is not tenable and liable to be set aside.

On the other hand, advocate for claimants submitted that evidence of A.W.1 supported version of claimant and there is no rebuttal evidence on the part of railways,

therefore, the Claims Tribunal granted compensation relying on decisions of Supreme Court and that there are no grounds to interfere with the award granted by 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 claimants that the deceased along with A.W.2 came to Nellore Railway Station on the early hours of 9.6.2006 purchased journey ticket from Nellore to Ongole and boarded train number 7229 Sabari Express and while train was passing between Surareddypalem and Ongole Railway Stations, the deceased accidentally fell down from the said train and died on the spot.

On behalf of claimants, one of the claimant is examined as A.W.1 and she reiterated the claim petition averments. One Ramaiah is examined as A.W.2. He specifically deposed that on 9-6-2006 during early hours, he along with the deceased went to Nellore railway station and the deceased boarded Sebari Express going towards Ongole which arrived at Nellore at about 3.30 A.M. He also deposed that deceased boarded general compartment in the rear end of the train and he left the Nellore Railway Station after departure of the train. Though this witness was cross-examined on behalf of railways, nothing could be elicited from him to doubt his testimony that he has not accompanied deceased to the Nellore Railway Station on the early hours on 9-6-2006. As per DRM report, body was found at K.M.No.288/18-22 on down rack, head at K.M.No.288/22 and leg at KM No.288/20 in the section between Ongole and Surareddypalem.

According to final report which is marked as Ex.R.2, investigation is concluded treating the death as accidental

death. If these two are read together, it is clear that it is a case of accidental fall from train which supports the version of A.Ws.1 and 2.

It is the specific contention of railways that deceased was not a bonafide passenger. When A.W.2 assertively stated that deceased purchased ticket at Nellore railway station for train number 7229 Sabari Express to go to Ongole, it is for the railways to show that no such ticket was issued at Nellore Railway Station on 9-6-2006 for that particular train. Railways except examining one of the Head Constable as R.W.1, no other witness is examined. Railway Claims tribunal considering evidence on record with reference to decisions relied on, recorded a finding that deceased fell down from a train and it is an untoward incident and that deceased was a bonafide passenger and the railways are liable to pay compensation.

I do not find any wrong appreciation of evidence nor any error in recording finding that the deceased was a bonafide passenger and died in an untoward incident.

On a scrutiny of the material, I am of the view that claims tribunal rightly rejected objection of railways and granted compensation to the claimants and there are no grounds to interfere with the same.

For these reasons, the appeal is dismissed as devoid of merits. No costs.

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

JUSTICE

S.RAVI KUMAR

Dated 8-7-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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