

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.931 of 2010

Date:28.03.2016

Between:

Union of India
rep by its General Manager,
East Coast Railways,
Bhubaneswar.

...Appellant.

AND

K. Dammu Gangulu and others.

...Respondents.

The Court made the following :

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JUDGMENT:

This appeal is preferred against order dated 06-07-2010 in OAA No.532/2010 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein submitted application under Section 16 of Railway Claims Tribunal Act read with Section 124-A & 125 of the Railways Act, that the deceased was their son and he was travelling

on a common journey ticket No.37447142 with his co-workers and friends, Ch. Mahesh and B. Sattaiah from Coimbatore to Parvathipuram in Alleppy Bokaro Express, when the train passed Vizianagaram, the deceased went to toilet and fell down from the train accidentally between Donkana Valasa and Bobbili and died on the spot and that ticket was seized by GRP, Parvathipuram. They claimed compensation of Rs.4,00,000/- and the appellant herein resisted the said claim and contended that the deceased was not a bonafide passenger and the claimants have to prove their relationship with the deceased and should also prove that deceased was travelling in the train with a valid ticket. It is further contended that there is no untoward incident of fall from train and that the claimants are not entitled for any compensation. On these contentions, Railway Claims Tribunal conducted enquiry and on consideration of evidence of A.Ws.1 & 2 and documents Exs.A1 to A4 on claimants side, evidence of R.W.1 & R.W.2 and documents Exs.R1 to R3 on railways side and the evidence of C.W.1 and document Ex.C.1 as Court witness and Court document, negatived the objection of the railways and granted compensation of Rs.4,00,000/-. Aggrieved by the said order, Railways preferred the present appeal.

3. Heard arguments.

4. Advocate for appellant submitted that the deceased was not a bonafide passenger and he was not identified at the time of inquest only on the basis of family members certificate, the respondents herein preferred the claim application.

He submitted that though it is contended that the deceased was travelling on a common ticket with his co-workers and friends, the claimants have not examined those persons to support their version that the deceased was a common ticket holder.

He further submitted that the Railways are not liable to pay

compensation as the injuries are self-inflicted one, which would fall under proviso to Section 124-A. It is further submitted that Claims Tribunal has not properly appreciated the material, therefore, the order of the Railway Claims Tribunal is liable to be set aside.

5. On the other hand, Advocate for claimants submitted that the deceased along with his co-workers and friends -

Ch. Mahesh and B. Sattaiah travelled from Coimbatore to Parvathipuram in Alleppy Bokaro Express, but due to the untoward incident of accidental fall, he died between Donkana Valasa and Bobbili. He submitted that the Court below, after considering the investigation report of the police, held that the deceased was a bonafide passenger and died in an untoward incident and granted compensation and that there are no grounds to interfere with the orders of the Railway Claims Tribunal. To support his argument, he relied on a decision of Hon'ble Supreme Court in **UNION OF INDIA vs. PRABHAKARAN VIJAYA KUMAR AND OTHERS**^[1].

6. Now the point that would rise for my consideration in this appeal is whether order of the Court below is legal, proper and correct?

7. **Point:-** Respondents 1 & 2 herein are the parents of the deceased and first applicant was examined as A.W.1 who stated that the deceased was unmarried and that they are the legal heirs of the deceased and that Ex.A4 is the legal heir certificate issued by the Mandal Revenue Officer, G.M.Valasa. The main contention of the Railways is that the deceased was not a bonafide passenger. This objection was raised before the Railway Claims Tribunal and as seen from the record, inquest was conducted on an unknown dead body, which was found near the track as per the opinion of the Panchyatdars, the deceased had fallen from the train basing on the

evidence of eye-witness-Venkata Rao. The police investigation revealed that the deceased travelled with a combined journey ticket and the other two passengers went to Parvathipuram without noticing the fall of the deceased. The claimants have given the ticket number in their application and if really, the deceased was not a passenger of that ticket, nothing prevented the Railways to produce copy of the ticket or records relating to the said ticket as they are the only persons who will have the record to show the names of the passengers of ticket No.37447142.

8. In **UNION OF IDNIA vs. PRABHAKARAN VIJAYA KUMAR AND OTHERS¹** the facts in that case are similar to that of this case. In that case, the injured girl tried to enter a running train and in the process, she fell down and the Claims Tribunal treated that was not an untoward incident falling within the meaning of said expression and dismissed the claim, but in the appeal, Karnataka High Court held that the incident would fall within the accidental fall as defined under Section 123 (c) of Railways Act and granted compensation and the matter was carried to Supreme Court and the Hon'ble Supreme Court held as follows:-

“We are of the opinion that it will not legally make any difference whether the deceased was actually inside the train when she fell down or whether she was only trying to get into the train when she fell down. In our opinion in either case it amounts to an "accidental falling of a passenger from a train carrying passengers". Hence, it is an 'untoward incident' as defined in [Section 123](#) (c) of the [Railways Act](#).”

It is further held that no doubt, it is possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter, falls down from the train, while the second being that it includes a situation where a person is trying to board the train and

falls down while trying to do so. Since the provision for compensation in the [Railways Act](#) is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred.”

9. Railway Claims Tribunal while dealing with the investigation report observed that it is difficult to ignore such report unless there is a material produced on behalf of the Railways to show that investigation was on wrong lines. Simply because, the claimants have not examined friends of the deceased and their version with regard to purchase of common ticket and travel from Coimbatore up to the place of incident cannot be discarded. Railway Claims Tribunal further observed that if the deceased was not a passenger and died while trespassing on the track that the information should have been received from Railways through the driver of the train because driver can only witness or notice the hit of train to the deceased. There is no such material on record therefore, considering the above referred facts, the claims tribunal accepted evidence of claimants and recorded that the deceased was a bonafide passenger and died in an untoward incident of accidental fall and granted compensation. I do not find any wrong in the order of the Railway Claims Tribunal either in appreciating the material on record or in arriving at the conclusion that the death of the deceased was due to accidental fall under untoward incident.

10. On a scrutiny of the material, I am of the view that Claims Tribunal rightly appreciated the material on record and came to a correct conclusion and that there are no grounds to interfere.

11. For these reasons, appeal is dismissed as devoid of merits and as a sequel, miscellaneous petitions, if any, pending in this appeal,

shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:28.03.2016
mr**b**

[\[1\]](#) (2008) 9 Supreme Court Cases 527