

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.134 of 2012

Date:14.07.2016

Between:

The Union of India
Rep by the General Manger,
East coast Railways,
Bhuvaneswar.

... Appellant.

AND

Mr.Ch. Demudu and another.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.134 of 2012

JUDGMENT:

This appeal is preferred against order dated 22-07-2011 in O.A.A.No.531/2005 on the file of Railway Claims Tribunal, Secunderabad Bench.

2. Respondents herein submitted application claiming compensation of Rs.4,00,000/- to the Railway Claims Tribunal for the death of their son Ch. Sreenu in an untoward incident. They contended that the deceased purchased ticket from Guwahati to Visakhapartnam and boarded General Compartment in Train No.5630 – Guwahati – Chennai Express on 15-4-2005, whereas his three

relatives boarded the same train in S-10 compartment and that the deceased, while travelling in the said train, accidentally fell down on 17-04-2005 at about 06:25 hours near Srikakulam Road Railway Station and died on the spot. Appellant filed written statement contending that incident does not fall within the ambit of Section 123 (c) of Railways Act and contended that there is no evidence to show that deceased fell down from running train and it must be a self inflicted injury, therefore, it is not an untoward incident under the provisions of Railways Act. They also contended that the deceased was not a bonafide passenger for the said train and he was only a trespasser, therefore, there is no liability on railways to pay any compensation. On these contentions Railway Claims Tribunal conducted enquiry, during which two witnesses were examined and five documents were marked on behalf of claimants and one witness was examined and four documents were marked on behalf of appellant and on a over all consideration of oral and documentary evidence, negatived the objections of Railways and granted compensation. Aggrieved by the same, present appeal is preferred.

4. Heard both sides.

5. Advocate for appellant submitted that order of the Claims Tribunal is not sustainable and contrary to law.

He submitted that claimants have not produced any ticket to show that deceased was a bonafide passenger. It is further submitted that Claims Tribunal has not properly appreciated evidence on record and wrongly recorded a finding that the deceased died in an untoward incident and therefore, order of the Claims Tribunal is to be set aside.

6. On the other hand, Advocate for claimants submitted that the fact deceased travelled in Train No.5630 is not disputed and simply

because ticket is not produced, deceased cannot be termed as not a bonafide passenger particularly when he was allowed to travel in train for three days. He submitted that Claims Tribunal has properly appreciated evidence on the record and came to a right conclusion and that there are no grounds to interfere with the findings recorded by the Claims Tribunal.

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

8. **Point:-** According to claimants, the deceased boarded Train No.5630 at Guwahati in General Compartment on 15-4-2005, whereas three of his relatives, who were holding reservation tickets, boarded Coach S-10 and travelled in the same train.

It is in the evidence that the deceased went for dinner and for lunch to Coach-S10 and thereafter, went back to General Compartment. From the evidence, it appears that the deceased moved from General Compartment to Coach-S10 these three days frequently and if really, he was travelling without ticket, the ticket collectors in the reservation bogi would have definitely checked him and made him to get down from the train, therefore, the contention of the respondents that the deceased was not a bonafide passenger is not acceptable particularly when the deceased was allowed to travel in the train from 15-04-2005 to 17-04-2005. The very same point was considered by the Railway Claims Tribunal and held that such a contention cannot be accepted at any stretch of imagination. The other objection of the railways is that claimants failed to show that the deceased fell down from running train. As seen from the evidence, body was found lying at Srikakulam Road Railway Station between platform Nos.2 & 3 at Km.748/31-22 post.

The documents produced on behalf of claimants and the report of the

DRM would show that deceased received head injury and died due to said injuries. The letter issued to GRP by the Deputy Station Superintendent, Srikakulam Road disclosed that one male passenger aged about 18 years had fallen down from Train No.5630 Express at Km.748/31-32 near Srikakulam Road Railway Station between Platform Nos.2 & 3 at about 6:22 hours, even the diary of the Station Master, which was marked as Ex.R2 revealed the same thing. So these two documents clearly supports the version of the claimants that the deceased fell down from train No.5630 at Srikakulam Road Railway Station. Added to this, report of the DRM., which was marked as Ex.R4 also supports the version of the claimants. According to which, enquiry revealed that on 17-04-2005, Train No.5630 – Express passed through Srikakulam Road Railway Station and Station Superintendent received information regarding fall down of deceased in between platform Nos.2 & 3, which would clearly disclose that deceased fell down from running train which would attract the definition of untoward incident. Railway Claims Tribunal has elaborately considered each and every aspect and rightly negatived the objections of the Railways and I do not find any wrong in the approach of the Railway Claims Tribunal in negativing the objection of the appellant.

9. For these reasons, I am of the view that there are no grounds to interfere with the orders of the Railway Claims Tribunal dated 22-07-2011 and that the appeal is liable to be dismissed as devoid of merits.

10. Accordingly, appeal is dismissed as devoid of merits and as a sequel, miscellanies petitions, if any, pending in this appeal shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:14.07.2016
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